

Legal Rights of Children

Circulars of Information of the Bureau of
Education No. 3-1880

By S.M. Wilcox

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CIRCULARS OF INFORMATION

OF THE

BUREAU OF EDUCATION.

No. 3-1880.

LEGAL RIGHTS OF CHILDREN.

WASHINGTON:
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LETTER.

DEPARTMENT OF THE INTERIOR,
BUREAU OF EDUCATION,
April 14, 1880.

SIR: The recent prolonged hard times have impressed educators anew with the great perils to public welfare arising from the neglect of the rights and privileges of children. Never before have those among us who are interested in education come to so lively an appreciation of the extent to which vice, pauperism, and crime in all their forms — with all their perils to the individual, family, State, and nation, or to labor and capital — are traceable to the misuse of the rights and privileges of childhood. The necessity of universal education is enforced by new arguments. A considerable number of States have sought to secure it by compulsory education, so called, but the manner in which it has been attempted has not always been cordially received, and the end sought has not always been attained. Important societies have been organized to prevent cruelty to children. Truant laws have been enacted and truant police employed with good results. Measures to prevent the employment in different industries of children that have not attended school a specified period of a given year have been found useful, and charitable visitation has increased the benefits of instruction among poor children by inquiries as to their school attendance and by providing food and clothing. More and more has agitation turned attention to the laws of the different States: this Office has been very much taxed in giving information of this character; teachers, parents, school officers, philanthropists, statesmen, have sought to find out what the laws now provide, to compare those of one State with another, and to ascertain what modifications are desirable. I have therefore had prepared, from the collection of school laws in this Office and from the unequalled collection of statutes and decisions of States in the law department of the Congressional Library, a summary of the legal rights of children. The difficult task has been executed by S. M. Wilcox, esq., a careful student of law, who has had the advantages of personal observation of these laws in New England, Pennsylvania, and this District. It will be observed how deeply embedded in the legal foundation of the several States is the child's right to education, and how the universal recognition of this right as obligatory would increase the efficiency of instruc-

tion in every State throughout the land. The papers are in two parts, the first treating of the rights of the children in general, including education, and the second giving a comparative view of the systems of education in the different States established to give force and effect to those rights, and thus assure the welfare of the individual and the State.

I have the honor to recommend these papers for publication, and am, sir, very respectfully, your obedient servant,

JOHN EATON,
Commissioner.

Hon. CARL SCHURZ,
Secretary of the Interior.

Approved, and publication ordered.

C. SCHURZ,
Secretary.

LEGAL RIGHTS OF CHILDREN.

Within the last few years associations have been formed in various localities having for their object the prevention of cruelty to children and the enforcement of their legal rights, and there appears to have been a disposition on the part of the several States in which such associations have been organized to aid them by appropriate legislation wherever the same appeared to be necessary.

The operations of these associations seem to have awakened public interest in the subject, and frequent inquiries have been made as to the rights, liabilities, and disabilities of children, by what means they may be protected against any invasion of their rights, and who may act for those who are generally understood to be incapable of acting for themselves.

The several legal text books which treat of this subject were prepared more for the lawyer than the general reader, and to meet the general purport of the inquiries made it has been thought best to prepare a statement of certain general rules, sanctioned by judicial decisions and approved by the best authors, with a reference to such of the State statutes as bear upon the subject, but omitting any extended discussion of the principles involved in the decisions, which, upon various points, are conflicting.

In doing this, free use has been made of the various text books. The latest revisions of the State statutes and many decisions have been examined, with the object of furnishing within a reasonable compass the general information sought for and with such reference to the authorities as might be of assistance to those who are desirous of making a more extended examination of the questions referred to.

THE CHILD FROM THE BEGINNING OF ITS BEING.

Mr. Tyler commences his elaborate treatise upon the Law of Infancy as follows:

Man, upon his entrance into the world, is entirely incapable of protecting himself; and his natural powers and faculties, both physical and moral, require a number of years for their complete development. Probably there is no creature so helpless at birth as the human being. The law has, therefore, wisely imposed upon man, for a limited period, certain disabilities, and endued him with certain privileges, which are implied in the term infant.

But the law does not wait until the actual birth of the child before it extends its protection. Under the civil law an infant in ventre sa mere

was, for the benefit of the child, reputed in the same condition as if born, and the common law is in this respect the same. Both in England and in this country, it is well settled that an infant in ventre sa mere is deemed to be in esse, or in being, for the purpose of taking a remainder, or any other estate or interest which is for his benefit, whether by descent, devise, or under the statute of distribution. Under the law of England a bill may be filed in its favor, a court of equity will grant an injunction to protect its rights, and the destruction of such a child is murder; and in most of our own States the destruction of such a child by any means is made a felony, unless where such act is necessary to preserve the life of the mother.

The common law doctrine as to such infants seems to have been recognized to its fullest extent in this country, although it is generally regulated by statute, but such statutes will, in most cases, be found to be reenactments of the common law, and where they vary from that it is in extending the common law rights of such infants.

The child, then, is to be considered in being from the time of conception, when it is for the benefit of the child that it should be so considered. As respects the rights of third persons, or those claiming through the infant, if the child should be born dead or in such an early stage of pregnancy as to be incapable of living, it is to be considered as never having been conceived or born. Children born within six months after conception are presumed to be incapable of living, and therefore cannot take and transmit property by descent unless they actually survive long enough to rebut that legal presumption.

When the mother dies before the birth of the child, and the latter is delivered by the cesarean operation, it is considered in existence before its birth, for its own benefit to take the estate of the mother by descent, but not for the benefit of the father to enable him to hold as tenant by the curtesy. Tyler on Inf. §§ 151 to 158.

WHO ARE INFANTS.

By the common law no person acquires fully all his political and civil rights until he is 21 years of age, at which time his infancy terminates. This rule, however, does not prevail in all systems of jurisprudence, for in Spain and some other countries emancipation does not take place until the age of 25.

By the common law the period of emancipation is the same for both sexes. In the American States the common law rule prevails, except where it has been changed by statute. In Vermont, Ohio, Illinois, and Nebraska females are considered of full age at 18. In Maryland females of that age may dispose of their real estate by will, and in Texas a female under 21 who shall marry in accordance with the laws of the State is deemed of full age after such marriage. R. S. Vt. 1863, chap. 72, § 1; *Sparhawk vs. Buell's Adm.* 9 Vt. Rep. 41; *Stevenson vs. Westfall*, 18 Ill.

209; 1 R. S. Ohio, ch. 56, § 1; Md. Code, art. 93, § 300; R. S. Neb. ch. 22, § 1; Oldham & White's Digest, Texas, art. 1400.

DISPOSAL OF CHATTELS BY WILL.

While, as a general rule, an infant labors under certain disabilities, it is not our purpose to give a detailed account of these disabilities, but rather to give some idea of the privileges granted and guards thrown around him by the law. The adult may do many things in reference to which the infant is either forbidden to act, or, if not forbidden, can only act under certain well defined legal restrictions, but the tendency of the law in many respects has been to make the privilege the rule and the disability the exception.

While, as we have seen, an infant may take and hold property, real and personal, yet, by the common law, he cannot make a will of lands. But by the common law an infant may make a testament of chattels; if a male, at the age of 14, and if a female, at the age of 12 years. The civil law gave the infant the power to dispose of chattels by will at the age of 17.

In this country the matter has been very generally regulated by statute. The rule of the civil law has been adopted in Connecticut and Illinois. In Vermont, Massachusetts, New Hampshire, Ohio, Pennsylvania, Maine, Indiana, New Jersey, North Carolina, Mississippi, Nebraska, Texas, and Florida none under full age can devise either real or personal property. In Maryland, Rhode Island, Missouri, Oregon, and Virginia, wills of personal estate may be made after 18. In New York the period is 18 for males and 16 for females. In South Carolina an infant of 18 years may make a valid will of personalty by conforming to certain statute provisions.

VOID AND VOIDABLE ACTS.

In *Cecil vs. Salsbury*, 2 Vern. Ch. R. 224, Lord Mansfield is reported to have said :

Miserable, indeed, must the condition of minors be; excluded from the society and commerce of the world; deprived of necessities, education, employment, and many advantages; if they could do *no* binding acts. Great inconvenience must arise to others if they were *bound* by no act. The law, therefore, at the same time that it protects their imbecility from injury through their own imprudence, enables them to do binding acts for their own benefit and, without prejudice to themselves, for the benefit of others.

In an early case in Massachusetts Justice Wilde says:

In all cases the benefit of the infant is the great point to be regarded; the object of the law being to protect his imbecility and indiscretion from injury, through his own imprudence, or by the craft of others. *Oliver vs. Houdlet*, 13 Mass. 237.

This protection is afforded by considering his acts as not binding in certain cases and allowing him to rescind his contracts with certain exceptions. There are two degrees in which his acts are not binding:

first, where they are held to be wholly void, and, second, where they are defeasible, at the election of the infant.

A void act never is or can be binding upon any one, and it is incapable of being confirmed. There is some uncertainty in the books as to the line of distinction between the void and voidable acts of an infant, with an apparent inclination in the courts to narrow the first and enlarge the latter. *Tucker vs. Moreland*, 10 Peters, 58.

The reason of this seems to be that, as the principle is the protection of the infant against his own weakness, if this protection can be secured to him without inflicting a detriment on innocent persons, such infliction must be unnecessary and unjust. To consider any acts of an infant absolutely void might operate to his own protection, but it would in many cases seriously affect the rights of third persons in no wise implicated in the infant's transactions, and might not unfrequently be prejudicial to the infant himself.

This is strongly enforced by Bingham, and his reasoning is in the main approved by Tyler. Bingham on Infancy, p. 14; Tyler on Infancy, § 10.

Any attempted enumeration of the acts which have been held void or voidable, or a discussion of the mode in which the infant may avoid or ratify and confirm his voidable acts, is not within the purview of the present inquiry. The precedents and decisions in these cases are numerous, easily accessible, and of sufficient variety to satisfy any reasonable inquirer.

The privilege conferred by law upon infancy is a personal one, and, as a general rule, no one but the infant himself or his legal representatives can avoid his voidable acts, deeds, and contracts, for while living he ought to be the exclusive judge of the propriety of the exercise of a personal privilege intended for his benefit, and when dead they alone should interfere who legally represent him. Tyler, § 19; *Hyer vs. Hyatt*, 3 Cranch C. C. 276.

The indulgence allowed by the law to infants, being for their own security, cannot be taken advantage of by persons of full age and legal capacity to contract. Hence, although the infant may avoid his contract, yet it is binding on a person of full age who contracts with him. "Every person deals with an infant at arm's-length, at his own risk, and with a party for whom the law has a jealous watchfulness." Story on Contracts, § 13.

All parties dealing with an infant, whether as co-contractors with him or as adverse parties, are liable upon such contracts, co-contractors in any event and adverse parties until the contract is disaffirmed by the infant.

As to the time when the voidable acts may be disaffirmed, the rule laid down is that all executory contracts and all contracts respecting personal property may be avoided by the infant either before or upon his

coming of age, but conveyances of realty cannot be avoided until he attains full age. *Tyler*, § 30.

But an infant cannot retain the benefits of his contract and thus affirm it, and yet plead infancy to avoid the payment of the purchase money. *Henry vs. Root*, 33 N. Y. Rep. 526.

If the contract has been fully executed on both sides, and the infant disaffirm and reclaim what he has paid, he must restore the consideration received. *Bigelow vs. Kinney*, 3 Vt. 353; *Williams vs. Norris*, 2 Littell's R. 157; *Hill vs. Anderson*, Sme. & Mar. 216; *Grace vs. Hale*, 2 Humph. 27; *Smith vs. Evans*, 5 ib. 70; *Badger vs. Phinney*, 15 Mass. 359; *Edgerton vs. Wolf*, 6 Gray's [Mass.] Reps. 453.

WHEN INFANTS MAY BE WITNESSES.

An infant may be a witness if proved to have sufficient discretion and understanding of the obligation of an oath. The test universally is that the child feel the binding obligation of an oath from the general course of his religious education. The effect of an oath upon the conscience of a child should arise from religious feelings of a permanent nature, and not merely from instructions confined to the nature of an oath, recently communicated for the purpose of the trial. *Rex vs. Williams*, 32 E. C. L. 524. But in one case where a child 9 years old, though very intelligent, did not understand the nature of an oath nor the moral penalty of false swearing, the court instructed her on the spot and then allowed her to be sworn. *Jenner's case*, 2 City Hall R. (N. Y.) 147. And children of 10, 9, 7, and even 5 years of age have been held competent. *Regina vs. Perkins*, 38 E. C. L. 236; *Commonwealth vs. Hutchins*, 10 Mass. 225; *State vs. Whittier*, 21 Maine, 341.

But the question rests mainly in the discretion of the court. The adverse party may require that a witness of tender years shall be examined as to his understanding of the nature and obligation of an oath, and, before the child is admitted to testify, the judge must be satisfied that the child feels the binding obligation of an oath. *People vs. McNair*, 21 Wend. 608.

MARRIAGE.

The common law age of consent to marriage is 14 for males and 12 for females. Contracts of marriage, where both parties are of the age of consent, if executed, are as binding as if made by adults; but if either party is under that age, *both* have the privilege of avoiding, a principle not found in any other contracts of infants.

The common law rule is in force in New York and Texas and in most of the other States. In Maine, Vermont, Mississippi, and Missouri males under 21 and females under 18 are forbidden to marry without the consent of the parents. In Ohio the age is 18 for males and 14 for females. In Indiana and Illinois the age is 17 for males and 14 for

females. In Wisconsin, Minnesota, and Oregon, males 18 and females 15. In Michigan and Nebraska, males 18, females 16. In Iowa and North Carolina, 16 and 14. Maryland imposes a fine for performing the marriage ceremony, where the parties are under 21 for males and 16 for females, without the consent of the parents.¹

In most of the States the law requires publication of banns or a license, and as a general rule the consent of the parents is required where the parties, or either of them, are under full age.

In the absence of any specific provision declaring marriages not celebrated in the prescribed mode as between parties under certain ages absolutely void, it is held that all marriages regularly made according to the common law are valid and binding, although had in violation of specific statute regulations. 2 Kent's Com. 90, 91; 2 Greenl. Ev. § 460; *Londonderry vs. Chester*, 2 N. H. 268; *Hantz vs. Sealy*, 6 Binney (Pa.), 405; *Milford vs. Worcester*, 7 Mass. 48; *Parton vs. Hervey*, 1 Gray, 119.

The punitive provisions of the statutes are treated as directory only upon ministers and magistrates, and to prevent, as far as possible, by penalties on them, the solemnization of marriages when the prescribed conditions and formalities have not been complied with. See on this subject Tyler, §§ 81 to 84, 91, 92.

THE STATUTE OF LIMITATIONS.

It is a maxim of the law that no laches or neglect is imputable to an infant during his minority, because he is not supposed to be cognizant

¹The Lyon Médical gives the following as the legal marriageable ages for men and women in different countries of Europe:

Country.	For men.	For women.
	<i>Years.</i>	<i>Years.</i>
Austria	14	14
Belgium	18	15
France	18	15
Germany	18	14
Greece	14	12
Hungary (Orthodox and Catholic)	14	12
Hungary (Protestant)	18	15
Italy	18	15
Portugal	14	12
Roumania	18	16
Russia	18	16
Saxony	18	16
Spain	14	12
Switzerland	14 to 20	12 to 17

of his rights or capable of enforcing them. *Ware vs. Brush*, 1 McLean, 533. When, however, the matter is regulated by statute, and there is no exception or saving in favor of any incapacity, laches will bar an infant the same as an adult. *Rayner vs. Watford*, 2 Dev. (N. C.) Law R. 338.

By the common law the statute of limitations does not run against an infant, but this is now regulated by statute, and the statute will run against infants unless they are specially exempted. Angell on Lim. § 194.

By the English law the statute does not run against infants in personal actions; that is, the computation does not commence until the infancy terminates.

The same is true in Vermont, Massachusetts, Rhode Island, New Jersey, Pennsylvania, Maryland, District of Columbia, Virginia, North Carolina, South Carolina, Georgia, Florida, Mississippi, Louisiana, Kentucky, Missouri, Arkansas, Texas, Ohio, Indiana, Illinois, Michigan, California, Iowa, Nebraska, and Kansas.

In England real actions may be brought in ten years after the minority ceases, and the time is the same in Maine, Rhode Island, New York, Pennsylvania, Delaware, Virginia, South Carolina, Florida, Kentucky, Ohio, and Michigan.

The term is five years in New Hampshire, Massachusetts, Connecticut, New Jersey, Arkansas, Wisconsin, and California.

The term is three years in North Carolina, Alabama, Tennessee, and Missouri; and in Minnesota and Oregon one year.

In Maine personal actions must be brought in six months after arriving at full age; in New Hampshire, New York, Minnesota, and Oregon, in one year; in Delaware, Alabama, and Tennessee, in three years, and in Connecticut, in four years on bonds and specialties and in three years in other personal actions.

In the other States the statute does not begin to run until full age. Tyler, chap. 10.

The statute does not bar a trust estate, but the doctrine holds good only as between the trustee and cestui que trust, and not between them on the one side and third persons on the other. *Huntingdon vs. Huntingdon*, 3 P. Williams, 310; *Lyon vs. Marelay*, 1 Watts, 275; *White vs. White*, 1 Md. Ch. 53; *Thomas vs. Brinsfield*, 7 Geo. R. 154.

When the statute makes no exception in favor of infants, the court of chancery will make none. *Demarest vs. Wyncoop*, 3 Johns. Ch. 146.

LIABILITY OF INFANTS TO SUIT.

I.—Civil suits.

Whenever an infant may be intrusted with an office, it follows as a matter of course that he is liable to the consequences of his acts in the exercise of such office. Tyler, § 121.

Wherever the infant is allowed to make a binding contract or perform

a valid act, he is liable to an action for non-performance or default, the same as an adult. *Railway vs. Coombe*, 3 Excheq. R. 569; *Railway vs. McMichael*, 5 ib. 126; *U. S. vs. Bainbridge*, 1 Mason, 71.

In all suits brought against infants, whom the law supposes to be incapable of understanding and managing their own affairs, the duty of watching over their interests devolves in a considerable degree upon the court. They defend by guardian appointed by the court, who is usually the nearest relative not concerned in point of interest in the matter in question. *U. S. Supreme Ct. Bank vs. Ritchie*, 8 Peters, 128.

Infants are liable for torts and injuries of a private nature and for all wrongs committed by them the same as adults. If the tort is committed with force, the infant is liable at any age. In such cases the intention is not regarded, and a lunatic is as liable to compensate in damages as a man in his right mind. *Reeves' Dom. Rel.* 256; *Baxter vs. Brush*, 29 Vt. 465; *Scott vs. Watson*, 46 Maine, 362; *Cutts vs. Phalen*, 2 Howard (U. S.), 376; *Vasse vs. Smith*, 6 Cranch, 226.

The general rule, however, is that the act must be wholly tortious in order to charge the infant. *Jennings vs. Rundell*, 8 Tenn. R. 337; *West vs. Moore*, 14 Vt. 447; *Merrill vs. Aden*, 19 Vt. 505; *People vs. Kendall*, 25 Wend. 399.

When the injury happened through unskilfulness, want of knowledge, discretion, or judgment, infancy will be a bar. *Campbell vs. Stokes*, 2 Wend. 137.

In New York it has been held that exploding fire crackers by an infant in the public streets of a city is unlawful, and if any damage to persons or property results therefrom the wrongdoer is liable to compensate the sufferer, and his infancy is no protection. *Conklin vs. Thompson*, 29 Barbour, 218.

In Massachusetts it has been held that an infant who hires a horse to go to a place agreed upon, but goes to another, is liable in tort for an unlawful conversion the same as an adult, but in Pennsylvania the reverse is held. *Homer vs. Thwing*, 3 Pick. 492; *Penrose vs. Curren*, 3 Rawle, 351; *Wilt vs. Walsh*, 6 Watts, 9; see also *Fish vs. Ferris*, 5 Duer, 49.

An infant who obtains property upon a representation that he is of full age is liable in an action of tort for damages or the recovery of the property. *Eckstein vs. Franks*, 1 Daily, 334; *Badger vs. Phinney*, 13 Mass. 345; *Cutts vs. Phalen*, 2 How. 376.

In cases of fraud, infancy is no defence in equity. Tyler, § 126.

An infant has been held liable in trespass for having procured another to commit an assault (*Sikes vs. Johnson*, 16 Mass. 389), but Chitty says an infant cannot be a trespasser by prior or subsequent consent, but only by his own act (1 Chitty's Pl. 7th Am. ed. 86), and an infant is not responsible for the negligence of one acting as his servant. *Robbins vs. Mount*, 33 How. Pr. Rep. 24.

II.—*As to crimes.*

Infants who have attained the years of discretion are regarded in law as capable of committing crimes the same as adults, and may be prosecuted and punished accordingly.

By the ancient Saxon law 12 years was established for the age of possible discretion. Between 12 and 14 one might or might not be guilty of a crime, according to his capacity or incapacity. Under 12 he could not be guilty in will; after 14 he could not be supposed innocent of any capital crime he had in fact committed.

In the absence of statutory provisions the court will look not so much to the age of the delinquent as to his strength of understanding and judgment. For, as has been said, "one lad at 10 years of age may have as much cunning as another of 14; and in these cases the maxim is *Malitia supplet aetatem*, "malice supplies the want of age." Tyler, § 129.

As a general rule, however, infants of less than 7 years cannot be punished as criminals. Before that age they are not in law considered as possessed of sufficient reason to be accountable or answerable for their acts, and it is only from 14 that the law holds them entirely responsible.

Under 7 the presumption of right is that one cannot have discretion, and no averment must be received against that presumption. Over 7 and under 14 he is *prima facie* not guilty; yet, if it appear by strong circumstances and pregnant evidence that he had discretion to judge between good and evil, judgment even of death may be given against him. *Rex vs. Owen*, 19 E. C. L. 493; *Commonwealth vs. McKeagy*, 1 Ashmead, 248; *State vs. Aaron*, 1 Southard, 231; *State vs. Doherty*, 2 Overton, 80; *Reniger vs. Fogossa*, Plowden, 19, note; see also Tyler, §§ 121-131.

This may be taken as the established rule where it has not been modified by statute, as it has been in some of the States. In Alabama, infants under 12 cannot be guilty of a crime or misdemeanor, and in California the age is fixed at 14.

All the books agree that where an act is denounced as a crime, even of felony or treason, by a general statute, it extends as well to infants if above 14 years, as to others. *People vs. Kendall*, 25 Wend. 399.

LIABILITY FOR NECESSARIES.

A husband is by law bound to support his wife, and if he refuse or neglect to provide her with necessaries suitable to his means and condition or so conduct himself towards her as to justify her in leaving him, or if, without reasonable cause, he drive her from his house, he thereby invests her with the right to pledge his credit for such necessaries.

By the common law parents are bound to maintain their children during their minority, and the same obligation is recognized in the civil

law. They are entitled to the earnings of the infant, but it will be found that the rule of liability for necessities in the case of parent and child is different from that enforced as between husband and wife.

There are cases in which it was held that the duty of a parent to maintain his offspring was a perfect common law duty; and that a stranger might furnish necessities for the child and recover of the parent compensation therefor, when there was a clear and palpable omission of duty on the part of the parent in supplying his minor child with necessities. *In re Rider*, 11 Paige, 188; *Van Valkenburgh vs. Watson*, 13 Johns. 480; *Edwards vs. Davies*, 16 Johns. 285; *Urmston vs. Newcombe*, 31 E. C. L. 393. But it may be noted that in several of these cases the parent was not charged.

Whether the fact that a father turns away his child from home, or neglects to provide for him, or so cruelly treats him that he cannot remain under the paternal roof, is sufficient to make the father responsible to any one supplying the child under such circumstances seems to be in doubt.

In a leading case in Connecticut the court says:

Parents are bound by law to maintain, protect, and educate their legitimate children during their infancy. This duty rests in the father, but because the father has abandoned his duty and trust, by putting his child out of his protection, he cannot thereby exonerate himself from its maintenance, education, and support. The duty remains, and the law will enforce its performance, or there must be a failure of justice. The father having forced his child abroad to seek sustenance under such circumstances, sends a credit along with him, and shall not be permitted to say it was furnished without his consent or against his will. *Stanton vs. Wilson*, 3 Day, 37.

But in a subsequent case this decision was commented upon and the doctrine denied. *Finch vs. Finch*, 22 Conn. 411. And in New York the doctrine would seem to have been avowed, as against the earlier cases, that there is no legal obligation on a parent to maintain his child independent of the statutes. *Raymond vs. Loyle*, 10 Barbour, 483.

In *Gordon vs. Potter*, 17 Vt. 350, Redfield, J., says:

I know there are some cases and dicta of judges, or of elementary writers, which seem to justify the conclusion that the parent may be made liable for necessities for his child, even against his own will. But an examination of all the cases upon this subject will not justify any such conclusion.

In England the parent may by statute be compelled to support a minor child, and it is there held that the only remedy in case the child is abandoned to destitution is that pointed out by the statute. *Mortimer vs. Wright*, 6 Meeson & Welsby, 482. And the law is declared to be well settled that without some contract, express or implied, the father is not liable for necessities. *Shelton vs. Springett*, 20 E. L. and Eq. 281; *Baker vs. Keene*, 3 E. C. L. 449.

In this country the laws of the several States impose the duty of support of minor children upon the parents, and they also make it the duty of the children to support their parents when they are of ability and the parent is in need. They provide the mode for enforcing the liability in

either case, and the tendency of the decisions is in the same direction as the English. It may therefore be now taken as the rule that, in order to charge the father on his son's contract for necessities, the same circumstances must be shown as would be sufficient to charge an uncle, brother, or any third person; that is, there must be an express or implied agency. Tyler, § 64.

But in order that an infant may not be forced into a position where, whatever his need, he might not be able to obtain food, shelter, or raiment, the law has adopted a rule, which is regarded and treated as an exception to the general rule, that an infant may make a valid contract for necessities, and such contract is neither void nor voidable.

It is said that the obligations of infants to pay for necessities arise, not so much by virtue of a contract so to do as on the ground of an implied legal liability, based upon the necessity of their situation, precisely in the same manner as with idiots and lunatics, who are absolutely incompetent to contract; yet in both cases, it being necessary for the parties to live, the law allows a reasonable compensation to any one supplying them. The infant's necessity, therefore, being the ground of his liability, it follows that when no such necessity exists all responsibility fails.

There are numerous cases in the books as to when and under what circumstances an infant may be bound for necessities and what are to be considered necessities, and the duty devolving upon the party furnishing, a review of which would require too much space for our present purpose. Upon these questions the inquirer is referred to the works of Bingham, Ewell, and Tyler.

RIGHTS OF CHILDREN AS TO PARENTS, MASTERS, OR GUARDIANS.

In treating of the subjects of guardianship, apprenticeship, adoption, and custody of children we are necessarily brought to consider more fully the respective rights, obligations, and powers of parent and child.

From the earliest times their respective rights and duties have been inculcated and enforced by law, and in modern times the state has assumed the power to control and regulate these relations. In a late case in New York Judge Westbrook says: "The right of the state to care for its children has always, and with very great propriety, been exercised." In reference to the morals and education of children, the exercise of this power is worthy of especial notice, and this will be found to be a characteristic mark of the early colonial laws.

Perhaps the earliest of this character are to be found in the laws of the Massachusetts colony, afterwards adopted in Connecticut.

These early laws very clearly inculcate upon parents the duty of properly training and educating their children, and at the same time as clearly provide against any neglect of this duty. Inefficiency, negligence, and overindulgence on the part of parents were no more tolerated than a stubborn and rebellious spirit in the child. The inefficiency or want of control of the parents over the child would seem, in some

instances, to have been visited heavily upon the child. But if in this respect they adopted the severity of the Levitical code, they added conditions in favor of the child not to be found in the original law. The general provisions, however, were such, and were so administered, as to have a marked effect upon their posterity, and established principles which may be traced through much of the modern legislation upon these and kindred subjects, and for this reason a brief sketch of these laws may not be inappropriate.

A law of 1642 denounces the penalty of death upon any child over 16 years of age who shall smite or curse his natural father or mother, "unless it can be sufficiently testified that the parents have been very unchristianly negligent in the education of such children, or so provoked them by extreme or cruel correction that they have been forced thereunto to preserve themselves from death or maiming." And the same penalty is imposed upon a stubborn and rebellious son of over 16, who persists in such conduct and refuses to obey the voice and chastisement of his parents, but lives in sundry and notorious crimes. Ancient Charters and Laws, p. 59, ch. 18, §§ 13, 14.

Their care for children is, however, better shown in a series of laws of the same year and later, chiefly relating to education and good morals, and asserting the right to limit and control parental authority.

In 1642 it was provided —

Forasmuch as the good education of children is of singular behoof and benefit to any commonwealth, and whereas many parents and masters are too indulgent and negligent of their duty in that kind: it is ordered that the selectmen of every town, in the several precincts and quarters where they dwell, shall have a vigilant eye over their brethren and neighbors to see, first, that none of them shall suffer so much barbarism in any of their families as not to endeavor to teach, by themselves or others, their children and apprentices so much learning as may enable them perfectly to read the English tongue, and knowledge of the capital laws, under penalty of twenty shillings for each neglect therein; also, that all masters of families do at least once a week catechise their children and servants on the grounds and principles of religion; and, if unable to do so much, that then at the least they procure such children and apprentices to learn some short orthodox catechism without book, that they may be able to answer unto the questions that shall be propounded to them out of such catechism by their parents or masters, or any of the selectmen when they shall call them to a trial of what they have learned of that kind; and farther, that all parents and masters do breed and bring up their children and apprentices in some honest lawful calling, labor, or employment, either in husbandry or some other trade profitable for themselves and the commonwealth, if they will not or cannot train them up in learning to fit them for higher employments.

And if any of the selectmen, after admonition by them given to such masters of families, shall find them still negligent of their duty in the particulars aforementioned, whereby children and servants become rude, stubborn, and unruly, the said selectmen, with the help of two magistrates, or the next county court for that shire, shall take such children or apprentices from them, and place them with some masters for years (boys till they come to 21 and girls 18 years of age complete) which will more strictly look unto and force them to submit unto government, according to the rules of this order, if by fair means and former instructions they will not be drawn unto it.

In the year before, it had been provided that —

If any person shall wilfully and unreasonably deny any child timely or convenient marriage, or shall exercise any unnatural cruelty towards them, such children shall have liberty to complain to authority for redress in such cases.

No orphan during their minority, which was not committed to tuition or service by their parents in their lifetime, shall afterwards be absolutely disposed of by any, without the consent of some court, wherein two assistants (at least) shall be present, except in case of marriage, in which the approbation of the major part of the selectmen of that town, or any one of the next assistants, shall be sufficient; and the minority of women in case of marriage shall be 16 years.

It was also provided that where children and servants behaved themselves disorderly and disobediently towards their parents or masters any one magistrate might by warrant summon such offender before him and, upon conviction, sentence him to such corporal punishment as the case might deserve, not exceeding ten stripes for one offence, or bind him over for appearance at court.

For the protection of young persons from evil disposed companions, who might draw them away from their callings, studies, and honest occupations, to the dishonor of God and the grief of their parents, &c., it was provided that whoever should in any way cause or suffer any young people or persons whatsoever, whether children, servants, apprentices, or scholars belonging to the college or any Latin school, to spend any of their time or estate, by night or by day, in his or their company, ship, shop, &c., and should not from time to time discharge and hasten all such youths to their several employments and places of abode or lodging, should forfeit 40 shillings.

Laws, 1651.—It was also provided that if any persons should give credit to any youths or other persons under 21 years of age without an order in writing from their parents, guardians, or friends, they should lose their debt, whatever it might be. And further, if any such youth or person incurred any penalty by such means, and had not the wherewithal to pay, such person or persons as were the occasion thereof should pay it as the delinquents in like manner should do.

Laws, 1647.—A similar provision as to credits given to students of the military school or of any incorporated college has been adopted in the State of Virginia (Code of 1849, chap. 143, § 1; West Virginia School Code, § 94), and also in New Jersey (Nixon's Dig. 4th edit. 388-9).

It is to be noted that these laws furnish the earliest example of that special legislation which is now known as the compulsory education laws, which will be hereafter referred to, to be found in American legislation.

APPRENTICESHIP.

As a general rule the contract for apprenticeship must be in writing. The infant cannot be bound in pais, nor unless he is a party to the writing or deed. The term of service for males is until 21, and for females until 18. This is the common law rule.

The subject, however, is now, both in England and this country, regulated by statute. The laws of the several States will be found very nearly uniform in their essential provisions, the differences being mainly in unimportant details.

The early New England law may be found in the general laws of New Hampshire, 1878, chap. 187, and nearly the same provisions in New York, 3 R. S. 173.

The provisions are in substance as follows:

Children under 14 may be bound as apprentices without their consent, until they arrive at that age, by the father; or, if the father is not living, by the mother or guardian; or, if they have no parents or guardian, they may bind themselves, with approval of selectmen or overseers of the poor.

Minors over 14 may be similarly bound with their consent; females, until 18, or to the time of their marriage within that age; and males, until 21.

The indentures must be in writing, in duplicate, signed, sealed, and delivered by both parties; and, whenever a consent or approval is required, such consent or approval must be in writing and indorsed upon both parts of the indenture. All indentures executed as provided by law are good and effectual against all parties thereto.

Such indentures cease to be binding upon the minor, his parents, or guardian, upon the death of the master, but in some States provision is made for assignment of the same.

Parents, guardians, and the selectmen or overseers of the poor are required to inquire into the treatment of persons so bound, and defend them from cruel treatment, and make complaint thereof to any magistrate, who may discharge such indenture.

If any apprentice is guilty of gross misbehavior, wilful neglect, or refusal of duty, or shall use personal violence towards his master, the master may make complaint thereof and the magistrate may give judgment for damages and costs, and discharge indentures.

Any apprentice leaving service without cause may be arrested and returned, and the master may recover his reasonable expenses and damages therefor. Enticing or carrying away an apprentice is forbidden.

Any master neglecting to teach or cause to be taught to any apprentice the art, trade, or profession he was bound to teach, or to fulfil any part of his contract, is liable to such apprentice after he comes of age for all damages therefor.

In most of the States the selectmen of the town, overseers of the poor, or other officers possessing similar powers may bind out poor and destitute children having no means of support.

The difficulty of the present day, however, is not in the want of wholesome statutory provisions regulating the relations of master and apprentice, but in the absence of the means and opportunity to apply them to practical use. Leaving out of the account all those children

having independent property or parents who feel themselves responsible for their well being and aid them to the extent of their ability, what is to be done with that large class cast upon the world as waifs, either without parents or with parents or custodians whose highest ambition seems to be to sink them to the lowest level of vice and vagabondage? This is the problem which is becoming of great importance, especially in our large cities, the satisfactory solution of which is by no means free from difficulty.

GUARDIANSHIP.

Another mode in which the law provides for the protection of infants is by the provisions for the appointment of guardians.

The books classify guardianship as of two kinds, one by the common law and the other by statute. In this country, however, there is practically but one, inasmuch as the whole subject is regulated by statute provisions.

The father and, next to him, the mother are treated as the natural guardians, and have the preference in the appointment, but the courts having control of this relation may disregard this preference.

Judge Story says :

Although in general parents are intrusted with the custody of the persons and the education of their children, yet this is done upon the natural presumption that the children will be properly cared for, and will be brought up with a due education in literature, morals, and religion, and that they will be treated with kindness and affection. But whenever this presumption is removed ; whenever, for example, it is found that a father is guilty of gross ill treatment or cruelty towards his infant children, or that he is in constant habits of drunkenness and blasphemy, or low and gross debauchery, or that he possesses atheistical or irreligious principles, or that his domestic associations are such as to tend to the corruption and contamination of his children, or that he otherwise acts in a manner injurious to the morals or interests of his children, in every such case the court of chancery will interfere and deprive him of the custody of his children, and appoint a suitable person to act as guardian and to take care of them and superintend their education. (2 Story's Eq. § 1341.)

Guardians by statute are of four kinds: Testamentary guardians, who are appointed by the last will and testament of the father, and in some cases of the mother ; guardians *ad litem*, who are appointed by the court to represent or defend an infant sued therein ; special guardians, who are appointed by the court for a special purpose, to represent the infant in some special proceeding, or to perform some act which the infant might perform or would be required to perform if he were of full age, and whose duties are at an end when the transaction is accomplished ; and, lastly, general guardians.

General guardians are appointed by certain courts upon which the jurisdiction is conferred by statute. In all the States, however, the court having chancery powers has a general jurisdiction over every guardian of an infant, and he is subject to the control and superintendence of such court. (2 Kent's Com. 227.)

As a general rule, an infant over 14 may by statute select his guardian, but such selection is subject to the approval of the court. It is the

duty of the court to consult the best interests of the child, taking into consideration not only his temporary welfare but also his training, education, and morals.

It will be found that the statute provisions on this subject are framed with a jealous regard to the rights and property of the infant and the courts are equally scrupulous and guarded, and the person taking upon himself this relation will be held to a strict accountability by all legal tribunals. The decisions and established rules are numerous and easy of access, and reference must be had to them to show the mode and extent to which courts will go for the protection of infants against any breach of trust on the part of their guardians. Practically, general guardians are not appointed unless there is property to which the infant is, or may be, entitled. The others, and by no means a small proportion, are left to the charity of the various public or private orphan associations, and their welfare in a great measure depends upon the solution of the problem before referred to.

ADOPTION OF CHILDREN.

In very many of the States provision has been made by law for the adoption of children by third persons. This is usually done under the direction of some court, usually, too, upon petition of the person desiring to adopt, and when the petitioner is married both husband and wife must join.

The parents of the child, if living, or, if dead, the guardian, must consent in writing. In case of an illegitimate child, the consent of the mother is sufficient. If there are no parents or guardian, the next of kin, or, in the absence of next of kin, the court may appoint some person who may give or withhold such consent.

The court must be satisfied of the identity of the persons whose consent is required and of the ability of the petitioner to bring up the child and furnish suitable nurture and education, having reference to the degree and condition of his parents, and the decree must set forth the facts.

From the date of the decree the child is, to all legal intents and purposes, the child of the petitioner.

In some of the States the child so adopted becomes, for the purpose of inheritance and for all other legal consequences and incidents, the child of the parents by adoption, as if born to them in lawful wedlock, except that he cannot take property expressly limited to the heirs of the body or bodies of the parents by adoption, and the natural parents are deprived of all rights as respects the child.

The court may change the name of such adopted child to that of the parents by adoption, and either party may appeal from such decree.

The mode of proceeding in such cases must, of course, conform to the statute provisions in each State, which must be consulted in such cases.

LABOR OF CHILDREN.

There are certain provisions of statute law in some of the States having for their object the protection of children from excessive toil unsuitable to their tender years.

In England the hours of labor for apprentices and servants are limited to ten hours a day and fifty hours a week.

Maine prohibits the employment of any person under 16 over ten hours each day. And no child is to be employed or suffered to work in any cotton or woollen factory without having attended school, public or private, under competent teachers, if under 12, four months, and, if over 12 and under 15, three months out of the twelve next preceding such employment. R. S. 1871, 425-6.

In New Hampshire no child under 15 shall be employed in any manufacturing establishment unless he has attended some public or private school under competent teachers at least twelve weeks, and, if under 12, six months, during the year next preceding, and ten hours constitute a day's labor. Gen. Laws, 1878, chap. 91, §§ 11 and 12.

In Massachusetts children under 12 cannot be employed over ten hours in any one day. Children between 12 and 15 must have attended school at least eleven weeks during the twelve months next preceding, and they must attend school at least eleven weeks during each year so employed. Gen. Stat. 1860, ch. 42; Laws of 1866, ch. 283; 1878, ch. 217. See also New York, 2 Rev. S. 98, § 2; Laws of 1876, ch. 372; Penna. Brightly's Purden, 452, §§ 1-6; Conn. R. S. 1866, tit. 13, ch. 4, § 50; New Jersey Laws, 1851, 321; California Gen. Laws, § 8650; Wisconsin Laws of 1877, ch. 289, Laws of 1878, ch. 187; Minnesota R. S. 1866, 228; Rhode Island G. L. 1872, 343, §§ 21 to 26; Swan and Critchf., Ohio, 824.

CUSTODY OF CHILDREN.

The subject of the custody of infants—the defects of the law in relation thereto, and how the same should be remedied, the apparent uncertainty in the application of the law to the different cases as they have arisen—has been the cause of long and elaborate treatises. Cases of conflicting interests and claims and unfortunate family differences have frequently occurred, calling for the interference of judicial authority, and without some study of the circumstances and facts of each case there would seem to be a greater conflict of decision than there really is. In these cases much is of necessity left to the sound discretion of the judge who hears the case; but there are some general principles which have been settled by authoritative decisions, and the controlling principle is that the court must carefully investigate the circumstances of each case, and act according to sound discretion and for the welfare of the child.

The Roman law gave the father absolute power over the persons of

his children, and according to some authorities over their lives and liberty, while the mother had no claim except for due reverence and respect.

The general rule of law in England was that the father had the legal power over his infant children, and during his life the mother had none. According to Blackstone, "a mother, as such, is entitled to no power, but only to reverence and respect." 1 Black. Com. 453.

And according to the common law the father had a right to the exclusive custody of his child, even at an age when it still required nourishment from its mother's breast. "It is the universal rule, with some exceptions, that the father is entitled to the custody of a young child even against the will of the mother" (*ex parte Glere*. 4 Dowl. P. C. 293), and this even though they be within the age of nurture (*Rex vs. Greenhill*, 6 Nev. and Man. 244; 4 Adolph and Ellis, 624). However pure might be the conduct of the mother, however amiable and correct in all the relations of life, the father might, if he thought proper, exclude her from all access to her children, and do this from the most corrupt motives. This state of the law which took so little account of the feelings of the mother continued until 1839, when an act was passed authorizing the interference of the courts for the protection of the mother and child.

Chancellor Kent states the general doctrine in this country as follows:

The father may obtain the custody of his children by the writ of habeas corpus when they are improperly detained from him; but the courts, both of law and equity, will investigate the circumstances, and act according to sound discretion, and will not always and of course take a child, though under 14 years of age, from a third person and deliver it over to the father against the will of the child. They will consult the inclination of an infant if it be of a sufficiently mature age to judge for itself, and even control the right of the father to the possession and education of his child when the nature of the case appears to warrant it. 2 Kent's Com. 194.

Again, he repeats:

The father, and, on his death, the mother, is generally entitled to the custody of the infant children, inasmuch as they are their natural protectors, for maintenance and education. But the courts of justice may, in their sound discretion, and when the morals, or safety, or interests of the children strongly require it, withdraw the infants from the custody of the father and mother, and place the care and custody of them elsewhere. 2 Kent, 205.

It is sometimes said that the right of the father to the custody of the persons of his infant children is in consequence of his obligation to provide for their maintenance and education. But this obligation of support is in some degree mutual under our laws, and there are cases where the obligation is shifted, and the child is bound for the maintenance of his parent; but we doubt if in such case the custody of the person of the parent would belong as of right to the child. In this country the right is, as a general rule, derived from the statutory enactments.

In this country, too, there is a great uniformity in the laws of the several States upon this subject, and the spirit of the decisions is essentially the same.

Where the question is to be determined by a judicial tribunal the courts are not bound to deliver the child into the custody of any claimant, but, in the exercise of a sound discretion, will leave the child in such custody as may appear best for it. Where there is a controversy between parents for the custody of their child, the right of the father is preferred to that of the mother, but the welfare of the child will be the criterion by which the custody is awarded. If the child have arrived at the age of discretion, in ordinary cases, upon *habeas corpus*, the court will permit the child to elect in whose custody it will be placed, but the court will take care that the custody is not an improper one. If the child is not competent to form a judgment and to declare his election, the court, after examination, will exercise its judgment for him.

For authorities upon this question we may refer to the following among many: *Matter of Woolstoncraft*, 4 Johns. ch. 80; *Matter of Waldron*, 13 Johns. 18; *People vs. Chegaray*, 18 Wend. 637; *People vs. Kling*, 6 Barb. 366; *Foster vs. Alston*, 6 How. (Miss.) 406; *Com. vs. Addicks*, 5 Binney, 520; *Ex parte Crouse*, 4 Whart. 9; *U. S. vs. Green*, 3 Mason, 482; *State vs. Smith*, 6 Greenl. 262; *People vs. Mercier*, 3 Hill (N. Y.) 399; *People vs. Wilcox*, 22 Barb. 178; *Wilcox vs. Wilcox*, 14 N. Y. Rep. 575; *Wellesby vs. Wellesby*, 2 Bligh (N. S.), 136; *Ex parte Skinner*, 9 Moore, 278; 2 Story's Eq. § 1341; Hurd on Hab. Corp. 528.

It sometimes happens that the father or, after his death, the mother may give the child to a third person, or may relinquish the custody of it until it arrives at full age, upon consideration that such party will adopt the child and care for it as his own, and that subsequently he or she, after a state of things has arisen which cannot be altered without risking the happiness of the child, may attempt to reclaim its custody.

Where this transfer is made under the laws relating to apprenticeship or the adoption of children, the parent would be barred from such a reclamation; but this is sometimes done without such statute laws or not in the mode prescribed by statute. It is easy to see that such an attempt at reclamation might be made under circumstances peculiarly unjust and aggravating, when the affections of both child and parents by adoption have become engaged, or where the father, by such an arrangement, while his child was of tender years and entirely dependent, might shift the burden of his care and support upon a third party, and when the child arrives at more mature years, and under the care and at the expense of his parents by adoption becomes capable of making some material return, the father by such recovery would secure to himself the benefit of the services and earnings of the child at the expense of those who had fitted him therefor.

There are, however, decisions, both in England and this country, to the effect that the father would not be bound by such a transaction, but may recover the custody of the child, even though the interests of the child had been promoted by the original transfer. Tyler (§ 187, p. 283) says that the better opinion is that the father in such case is not in a

position to require the interference of the court in favor of his controlling legal right as against the rights, the feelings, and the interests of the other parties, and cites *Pool vs. Gott*, 14 Law Rep. 269; *State vs. Smith*, 6 Greenleaf, 462; *McDowle's case*, 8 Johns. 328; *Com. vs. Gilkeson*, Wallace (Philada.) R. 194; *State vs. Barrett*, 40 N. H. 15. See also *Matter of Murphy*, 12 How. Pr. R. 513; Hurd on Hab. Corp. 537. The only American cases which he cites as against this doctrine are *State vs. Oliver*, 1 Harr. (Del.) 419; *Mayne vs. Bredwin*, 1 Halstead, N. J. Ch. 454. Hurd, however, in a note, cites various other cases on both sides, but evidently agrees in opinion with Tyler.

In the case of illegitimate children the mother has the right to the custody. *Hulland vs. Malkin*, 2 Wilson, 126; *Rex vs. Soper*, 5 Term R. 278; *Rosalina vs. Armstrong*, 15 Barb. 247; *People vs. Mitchell*, 44 Barb. 245; *Wright vs. Wright*, 2 Mass. 109.

In many of the States these general principles of the law have been supplemented by specific statute provisions for the protection of children.

In many of the States the exposure of an infant under 6 years by the parents or other person having the custody of such child with intent to abandon it, and in some cases exposure such as endangers health or limb of infants, is punished by fine and imprisonment. R. S. Maine, 1871, 828; R. S. Conn. 1875, 500, § 15; Comp. Laws Mich. 1871, 2075; 3 Stat. Tenn. § 4620; R. S. Wis. 1858, 974, § 8; 3 R. S. N. Y. 937, § 45; Code Ga. 1873, § 4373; Wagner Stat. Mo. 451, § 39; N. Y. Laws of 1876, chap. 122.

In New York, where parents abandon their children they forfeit all claim to their custody as against any person who has taken, adopted, or assumed the maintenance of such child. (3 R. S. 166, § 11.) And in Georgia parental power is lost by consent to adoption, by voluntary contract releasing custody to third person, by failure to provide necessities, by abandonment of family, by consent to marriage, and by cruel treatment. (Code of 1873, § 1793.) The Minnesota law authorizes any incorporated orphan asylum to take charge of destitute and abandoned children. (R. S. 1866, §§ 65, 66.) And in New York and other States there are various societies having this power, many of them organized solely for this object.

Abducting, enticing, or conveying away minors is also prohibited under penalty. R. S. Me. 828; Mich. C. L. 2075; Tenn. 3 Stat. § 4621; Ga. Code, §§ 4367-8; Mo. Wag. Stat. 451, § 38; So. Car. R. S. 711, § 15; and others.

In many of the States the furnishing or sale of spirituous or intoxicating liquors, wines, or malt liquors is covered by a general prohibitory law, applicable to all; but in some States special provisions have been enacted as to minors. N. Y. 3 R. S. 937, § 21; Iowa Code, § 1539; Ill. 1878, 528; Ind. R. S. 872; Mich. C. L. 702; Tenn. 3 Stat. § 4863; Minn. R. S. 208, § 10; Mo. Wag. St. 552, § 20; Penna. Purden, 666, § 31.

Again, minors under a certain age are prohibited from being admitted to or remaining in any saloon or place of entertainment where spirituous or malt liquors are sold, exchanged, or given away, or at any place of amusement known as a dance house or concert saloon, unless accompanied by parents or guardians. N. H. G. L. 1878, ch. 269, § 23; Cal. Stat. 1877-8, p. 813; Mo. Wagner, 213, § 8; Penna. Purden, 49, § 9, 501, § 20; N. Y. 3 R. S. 982, § 91; Ohio, Sayler's Stat. 271, ch. 264.

Gambling or betting with minors, furnishing them with dangerous weapons, or selling poisons to them is prohibited. Ohio S. and C. 667; Tenn. 3 Stat. §§ 4864, 4887; Mo. Wagner, 662, § 5; N. Y. 2 R. S. 921, § 44.

Children found begging or soliciting charity may be arrested and committed. N. Y. 2 R. S. 837, § 4; Cal. Stat. 1877-8, 813, § 4. And the general laws against gaming, begging, and vagrancy apply to minors as well as to adults.

In some of the States there are provisions similar to those found in the Florida statutes, in which stubborn children, runaways, and those who misspend their time by frequenting gaming houses or tippling shops are classed with disorderly persons, rogues, and vagabonds, and made subject to the same punishment. See Bush's Digest, 249, § 24. As to *stubborn children*, there is the spirit of the old colony law of Massachusetts, but with a strong modification of the penalty.

But, perhaps, sufficient has been said to show the tendency of the legislation on this subject.

Within the last few years another matter has received attention at the hands of the State legislatures.

In the laws of New York for 1874, chap. 116, it is provided that any person, whether as parent, guardian, relative, employer, or otherwise, having in his care, custody, or control any child under the age of 16 years, who shall sell, apprentice, give away, let out, or otherwise dispose of any such child to any person, under any name, title, or pretence, for the vocation, use, occupation, calling, service, or purpose of singing, playing on musical instruments, rope-walking, dancing, begging, or peddling, in any public street or highway, or in any mendicant or wandering business whatever, and any person who shall take, receive, hire, employ, use, or have in custody any such child for such purposes, or either of them, shall be deemed to be guilty of a misdemeanor, &c. 3 R. S. 164, § 9.

Again, in 1876, it was enacted that any person having the custody, care, or control of any child under 16, who shall exhibit, use, or employ, or in any manner or under any pretence sell, apprentice, give away, let out, &c., any such child to any person in or for the vocation, occupation, service, or purpose of singing, playing on musical instruments, rope or wire walking, dancing, begging, or peddling, or as a gymnast, contortionist, rider, or acrobat, in any place whatsoever, or for and in any business, exhibition, or vocation injurious to health or dangerous

to the life and limb, or who shall cause, procure, or encourage any such child to engage therein, shall be guilty of a misdemeanor. And upon conviction of such party the court or magistrate may, if he deem it desirable for the welfare of the child, deprive such person of its custody, and commit it to some orphan asylum, or make such other disposition of it as is or may be provided for by law. Laws of 1876, ch. 122.

Similar provisions of law are found in New Hampshire, Gen. Laws, 1878, ch. 269, § 24; California Laws of 1877-8, 813, act March 30, 1878; Pennsylvania, act of May 24, 1878; Illinois, Laws of 1876, chap. 122, revision of 1878, 496. And the same general provisions may perhaps be found in other States, whose later statutes we have been unable to examine.

In a case arising under the New York laws, Westbrook, J., says:

The right of the State to care for its children has always, and with very great propriety, been exercised. Under its laws, whenever the welfare of the child has demanded, its courts have frequently interfered for the protection of children of tender years. It has again and again taken them from one parent and given them to the other, or has refused so to do, the good and welfare of the child being the object always in view. It has so acted without the intervention of a jury, and that power has never been supposed to have been improperly exercised because a jury was not allowed and due process of law not had. If the courts of the State may, by virtue of their general powers, interfere for the protection and care of children, it is not seen why the legislature may not prescribe the cases in which children shall be rescued from their custodians and a mode provided for their summary disposition. For example, if children should be placed to learn the business of stealing, could not the legislature provide a summary remedy for the evil? Has the law no power to rescue, summarily, female children held for the purposes of prostitution, or interfere in an expeditious manner in very many cases when children of tender years are exposed to peril or temptation? This will hardly be argued, or, if claimed, authority most abundant can be found to justify it. Precisely this ground the act of 1876 covers. In my judgment it is a most wise, salutary, and beneficent statute, born of Christian civilization and founded upon the teachings of Him to whom children were objects of tender love and care. It needs no evidence to demonstrate to our judgment that the life to which these children were subjected and from which they were rescued was perilous to their best interests. It was dangerous to them physically and morally. The contortions, evolutions, and performances of the acrobat are clearly physically dangerous, and the surroundings and companions of the circus ring are equally so morally. In the matter of *Donohue et al.* N. Y. Sept. term, 1876.

SPECIAL PROVISIONS IN REFERENCE TO EDUCATION.

Under this head it is not proposed to do more than to call attention to certain specific provisions of law enforcing the duty of parents, guardians, and others having the custody of children to provide for their education and intended to prevent truancy.

It is well settled that a proper education is included in the term "necessaries." Whether a "proper education" is to be construed to include more than a good common school education is a question upon which the decisions are not harmonious. In *The College vs. Chandler*, 20 Vt. 683, the supreme court say:

A good common school education at least is now recognized as one of the "necessaries" for an infant. Without it he would lack an acquisition which would be com-

mon among his associates, and would ever be liable to suffer in his transaction of business. Such an education is moreover essential to the intelligent discharge of civil, political, and religious duties.

To this extent the courts are in accord, and the reason given in an English case was that it was for the benefit of the realm. *Manley vs. Scott*, 1 sec. R. 112.

In this country the education of children has been provided for by constitutional and statutory provisions for the organization of public schools, free to all within the scholastic age. Experience, however, has shown that the attendance upon the free public schools has never included all the children of school age. Parents have been found "so indulgent and negligent of duty in that respect," so regardless of the interests of their children, as to suffer them to grow up in ignorance and idleness, or so greedy for a little present gain that they are willing to sacrifice the future welfare of their children to obtain it, and especially in our large cities a class of children are found who prefer the unbridled license of the streets to the wholesome restraints of the school room.

To prevent this evil there have been added to the school systems of many of the States what are known as the provisions for compulsory education. The State, having provided a free gift for its children, has sometimes found it necessary to compel its acceptance.

These provisions are of two kinds, those that apply to parents or custodians of the children, the compulsory laws proper, and those that reach and apply to the children themselves, or the laws to prevent and punish truancy.

In many of the States there are some general provisions of law bearing upon this question. Vagrants and disorderly persons are placed under the ban of the law, and these are defined to include those who have no regular or lawful occupation, who mispend their time in idleness or frequent places of immoral tendencies, stubborn children, runaways, idle persons who go about begging, and the like. There are also laws providing for the arrest of vicious and unruly children, or of those suffered to run at large without proper restraint, and their commitment to some institution provided for such purpose, there to be employed at such suitable labor as they may be able to perform and to be educated and instructed so that they may make useful citizens.

The laws for the prevention of truancy reach all children of the prescribed age who do not attend school, and provide for their being placed in some proper institution to be educated and instructed until they are brought under proper restraint. These gather into the schools the street waifs who can be reached in no other way, and if they are not effective it is because they are not properly enforced.

In Maine, Massachusetts, and Rhode Island the truant question is referred to the towns, who are authorized to make by-laws respecting truants and children within a prescribed age not attending school, or who are without any regular or lawful occupation or growing up in

ignorance. The towns may annex suitable penalties for the breach of these by-laws and appoint special officers to enforce the same—a plan which has not proved eminently successful. R. S. Me. 186, §§ 13 to 15; R. S. Mass. chap. 42, § 84; Gen. Stat. R. I. chap. 57.

The other branch is perhaps more effective and reaches the larger number of cases. It declares the duty of the parent or custodian, and enforces that duty by penalties for the breach thereof.

These compulsory provisions are not original in the Massachusetts law of 1642, but would seem to have been borrowed from the same source as the laws in reference to stubborn children or those who should smite or curse their natural parents.

In an article on "The criminal code of the Jews," in a recent number of the *Pall Mall Gazette*, the writer says:

It must be remembered that education was well advanced among the Hebrews, especially after the first or Babylonian captivity. A system of compulsory instruction had been introduced by Joshua, the son of Gamala. There was a school board for each district. Every child more than 6 years of age was obliged to attend the communal schools. Such importance does the Talmud attach to the training of the young that it enters into the minutest details upon the subject.

The duty of preparing them to become good and useful citizens was not neglected. The Bible was their moral and legal code, and the study of this was enforced. A Jew could not but be well acquainted with the leading principles of his legal code and their general application.

And the same writer says:

A man who had not or had never had a fixed occupation, trade, or business, by which he earned a livelihood, was not allowed to act as judge. "He who neglects to teach his son a trade," say the rabbins, "is as though he taught him to steal."

The New Hampshire law requires parents, guardians, or other custodians of children between 8 and 14 years of age to send them to school at least twelve weeks in each year, six weeks of which at least must be continuous. With some variations as to age and time, the same law prevails in other States. Michigan, act 165, laws of 1871; California, act March 28, 1874; Conn. Gen. Statutes, revision of 1875, title xi, with amendments to 1879, § 1; Maine, act of 1875; Mass. laws of 1873, 279; 1874, 233; 1876, ch. 52; 1878, ch. 257; New York, laws of 1851, ch. 337, § 13; as amended, 1866, ch. 245; District of Columbia, R. S. D. C. ch. 12, § 1; Kansas, laws of 1876, ch. 92; Nevada, act Feb. 25, 1873; New Jersey, act April 9, 1875; Ohio, act of Sept. 1, 1877; Vermont, acts 1867, 1870, 1873; Wisconsin, laws of 1879; Arizona, act of Feb. 9, 1875; Wyoming, acts Dec. 12, 1873, and Dec. 15, 1877.

Washington Territory, by a law of 1877, applies a similar provision to all towns of 400 or more inhabitants. The constitutions of Colorado and North Carolina authorize such a law, but the legislatures do not appear to have acted upon it.

In Illinois the expense of the support and education of children are made a charge upon the property of both husband and wife, or either,

in favor of the creditor therefor, who may sue either one or both. Stat. 1876, 693, § 15.

In Georgia a general provision makes it the duty of the father to provide for the maintenance and education of his children during minority. Code of 1873, § 1792.

And this is the general requirement of the law. Where there is sufficient property of either parent or belonging to the child, courts of equity under the general rules of the law are authorized to interfere, to secure to the child a proper education where the natural or legal custodian neglects that duty. But under the special compulsory provisions there is no question of property. The free public schools offer facilities for education without charge to parent or child, and it is made a penal offense for the parent or custodian to refuse the facilities so offered to the child.

If it be true that a good common school education is recognized as one of the necessities for an infant, and essential to the discharge of civil and political duties, or, as generally stated, that a diffusion of knowledge among the people is essential to the preservation of free institutions, these so called compulsory or obligatory laws are founded upon the right and duty of self protection and preservation. They belong to the class of laws which are intended for the suppression of vice. They are intended to reach and bring within the influence of our schools a class who cannot be reached effectually in any other way. Wherever they have been properly enforced, the evidence is that great benefits have accrued therefrom; and in a somewhat extended examination of the various school codes but one instance has been found where these compulsory provisions once adopted have been abandoned, and that is in the Texas school code of 1879. Even there there was no direct repeal, but the clause was omitted in the revision, and it would seem that it was sought to do by implication what they hesitated to do by direct declaration. The same revision narrows the school age from 6 to 16 down to 8 to 14, and deprives all children under 8 or over 14 of the privilege of free education. Whatever may have been the cause of this retrograde movement, there will be found little disposition in other States to follow it. In the two adjoining States, Arkansas and Louisiana, the school age is from 6 to 21, which may be termed the general school age of the country, and it can hardly be supposed that Texas parents will persist in depriving their children of advantages which would be their right in every other State. The simple question is whether it is better to educate the children for our jails and workhouses or to become useful citizens. In the one direction or the other they will be sure to go, and if left to themselves, especially in our large cities, a large class will take the wrong direction and render the problem before referred to more difficult of solution.

GENERAL SCHOOL LAWS.

Among the rights and privileges of children, and by no means the least important, is the right to the education provided for them under the public school system. In a former paper one branch of this subject, known as the compulsory education system, was introduced. It is now proposed to treat of the public free school system of the various States, and to give an abstract of the various State school codes, as brief as is consistent with a fair understanding of the same.

It has been said that there is no American school system. If this means that there is no national system adopted and prescribed by the Federal Government the statement is true. The power to establish and enforce a public school system is one which the people have never delegated to the General Government. On the contrary, they watch with great jealousy any act which shows an intent on the part of the Government to interfere with this subject. It is true that a national Bureau of Education has been established, but it has no governing authority. It is simply an office of information, and its chief function is to collect and disseminate information upon educational subjects. It appeals through the history of experience to the reason and sound judgment of the people. It brings home to them a knowledge of all that is done for education.

The American school systems as they exist to-day are the result of the independent action of thirty-eight independent States and of nine Territories, each acting for itself. The various statutes of these States and Territories relating to common schools would fill volumes. The result sought to be attained has been the same in all. In some of the older States it is the growth of over two hundred years of practical experience, and this experience has inured to the benefit of the younger States. In many instances the new States have undoubtedly improved upon the old, and the old States have shown their appreciation by adopting the improvement. Hence, instead of such great diversities as might naturally be expected from the separate action of so many independent authorities, it will be found that upon the material points there is a remarkable unanimity.

As a general rule the people are slow to allow or assent to changes in constitutional provisions, even when it is freely admitted that some changes are desirable. In almost every legislative body there will be found a class of statesmen who seem to have no doubt of their ability to improve upon any existing law or system, and the people seem to expect and submit to a certain degree of instability in the statute law. But when the proposition is to change constitutional provisions they must be satisfied that some urgent necessity demands the change ere they will consent to remove the legal restrictions which bar any alteration of the fundamental law, and as a general rule the change when proposed must be approved by the popular vote before it can become effective.

Hence, when permanency is desired they secure it by incorporating the proposed ordinances in the constitution. This is not, as some foreign writers seem to understand, a compulsory power wielded by the State against the free action of its citizens, but a voluntary binding agreement entered into by the citizens themselves, which controls or compels State action. The people are bound by the constitution which they have adopted until it shall be legally changed or modified, but one of its most essential functions is to restrict the legislative power in certain directions, while it at the same time compels action in others.

The idea lying at the foundation of the American school system is found in the apothegm, "An ignorant people may be governed, but only an educated people can govern themselves." The doctrine which has been incorporated into many of the State constitutions, and is the governing principle in all, is that "knowledge and learning as well as virtue generally diffused throughout the community is essential to the preservation of a free government and of the rights and liberties of the people." Hence, for the protection and perpetuation of free government, they have inserted in their State constitutions provisions requiring the legislatures to establish and provide for the maintenance of an efficient and uniform system of public schools, free to all children of the State within the school age.

Many have gone further than this and provided for the setting apart of a special State school fund, the principal of which is not to be diminished, the interest on which is pledged for the support of schools and forbidden to be used for any other purpose, and in addition an annual State appropriation or the levy of a special State tax is usually made for the same purpose. In many States the provision is required to be sufficient to support a school or schools in every district for a certain specified time each year as a minimum limit.

In many of the State constitutions there are provisions for the appointment of supervisory officers, who are to have charge of the educational interests of the State, and in the constitution of Virginia the provisions substantially establish the system, leaving but little except details to be provided for by the legislature.

Another general principle, constitutional or statutory, is that the public schools shall be free from all sectarian or denominational influences. As enumerated in the constitution of Massachusetts, "humanity and general benevolence, public and private charity, industry and frugality honesty and punctuality in dealings, sincerity, good humor, and all social affections and generous sentiments" are to be inculcated, but sectarian or denominational teaching is rigidly excluded from the schools or school books. Perfect freedom of religious belief is the right of every citizen. He may adopt any form of religious belief which approves itself to him or he may reject all forms. He may bring up his children to believe in the teachings of any sect or creed, but he must provide for this outside of the public school. He cannot require others entertain

ing different and frequently radically conflicting opinions to contribute to the inculcation of his own particular tenets. The public school is the neutral ground, free to all creeds and forms of belief, upon which the most discordant elements may meet and enjoy equal rights and privileges, a result which perhaps cannot be fully attained except by a secularization of the public schools.

In the matter of school statistics the provisions of the State codes are almost identical. At stated periods there is required from some school district officer a census of all persons residing in the district of the school age, some even requiring names, age, and sex. This is the school material. In every school a register is required to be kept by the teacher of the name of every pupil attending from day to day, and at stated periods reports are to be made showing the actual attendance of each, with the average attendance for the period, and unless these reports are made the teacher forfeits his pay. A comparison of these two shows the names of all who are denied or who neglect to avail themselves of the benefits of the school privileges. From each district must also come a statement of the number of schools, the length of time and by whom taught, their management and comparative condition, the wages of the teachers, with a complete statement of the financial condition of the district, the sources from which its funds were derived, and the cost per scholar. So specific are the details required that the reports furnish a complete annual history of the operations of each district.

Again it is made the duty of certain officers to visit the schools and examine into their condition and management and report upon the same. This is made peremptory upon the officers, beginning with the district and running up to the town or county and in some degree to the State supervisory officers. The theory of the law requires a careful study of the workings of the system, with a series of reports thereon which finally reach the legislature through the State superintendent or State board.

In all the States and all the Territories, except Alaska, which has no public school law, and New Mexico, where the provisions are extremely crude, the general supervision of educational interests is vested in a State or territorial superintendent, with or without a State board of education. In Connecticut, Massachusetts, and Texas the substantial duties of State superintendent are devolved upon the secretary of the State board, and in Maryland, upon the principal of the State Normal School, who is *ex officio* a member of the State board.

The State boards in some cases are merely the trustees of the school fund, and have the care and management of the school lands; in some their functions are simply advisory upon matters referred to them by the State superintendent, while in others they are charged with the general supervision of the school system, with power to make and enforce rules and regulations for the government of the same.

The State superintendents, with or without the direction of the State boards, are charged with the general supervision of the educational interests of the State and with the administration of the school laws. They are to advise with and instruct the county superintendents and other subordinate school officers, to prepare forms and blanks for reports and returns, examine into the workings of the system, collect statistics and information, devise plans for the improvement of the schools, and generally make themselves familiar with the wants and necessities of the system, and make full reports to the governor or legislature. They have also general supervision of the State normal schools and institutes for the education and instruction of teachers, and apportion the State school moneys to the counties or towns, in the mode provided by law.

In all the States outside of New England, except Michigan and Ohio, which seem to have adopted substantially the New England system, and Delaware, where there is no present provision in the law for any officers between the State superintendent and district boards, there are county superintendents or county boards or both, the parish boards of Louisiana corresponding to the county boards in other States.

These county boards or county superintendents generally occupy the same position with reference to the county schools as the State superintendent does to those of the State, but subject to the State superintendent. Under the New England system, the town school committees or supervisors perform the duties in their several towns which in the States which have adopted the county organization is performed by the county authority. Where the county is made the source of power, it is generally made the duty of the county authority to divide the territory into convenient subdistricts and establish in each a sufficient number of schools for the accommodation of all children of school age. In these States the duty of providing for the schools beyond the State provision is imposed by law upon the county, or the county and school district, while in New England and some of the other States the town or township is the head, and upon it is imposed the duty of providing for the support of the schools.

The school district is a territorial division of a county or town, which is recognized in all the States except Texas, where it simply includes families sending to a school. Under the laws of the New England States, while the towns were to a certain extent required to provide for the support of the schools, they were also to be divided into school districts, the extent and boundaries of which were to be determined by the town. The districts so formed were, for school purposes, independent municipal corporations. The town was required to levy a tax for the support of the schools, which was to be distributed to the several districts as provided by law or as it might direct. Aside from this the district might vote such additional tax as it saw fit for the same purpose. It provided its school-houses, fixed their location, determined the time when the schools should commence and close, whether they

should be taught by male or female teachers, and managed its own affairs through its own officers. For a certain length of time it was bound to keep up its schools under competent teachers. The town school committee determined who were competent teachers and had the general supervision of the schools. If the district neglected or refused to perform its statutory duties the town or its committee might interfere, employ teachers, and establish and keep up the schools at the expense of the town or district. The present laws, however, in several States, authorize the towns to abolish the district system and assume control of the schools, and for that purpose it becomes the district; and in Massachusetts the town system has been substituted for the old district system in the larger part of the State. In many of the States outside of New England the law makes the city, borough, or township the school district; and in States where the county is to be divided, the formation of districts too small in means or population to be effective is sought to be avoided by forbidding the laying off of any district unless it contains a minimum number of children of school age.

The Texas school law of 1879 virtually abolishes school districts as territorial divisions and substitutes in their place what are called "school communities," which would seem to be associations of individuals, covering the same territory, like church or other associations, without other limitation than that in towns of less than 1,500 inhabitants but two such communities can be formed for whites and two for colored. This is a new invention as applied to the school system, and what its effect may be remains to be seen.

Another point upon which all the school laws are in unison is the necessity of providing means to secure competent and qualified teachers. The early requirements were evidence of good morals and a satisfactory examination before some authorized board or officer as a condition precedent to employment. It was discovered, however, that the possession of knowledge and the faculty of communicating it to others did not always accompany each other; that teaching was of itself a science to be taught; and hence there have been added to the common school system State normal schools for the training of teachers, and State and county teachers' institutes, which the teachers are in most cases required to attend, the object of which is the improvement of the methods of teaching and to raise the standard of teachers' qualifications. In this way the States have not only undertaken the education of the children, but also provided for the instruction and education of the teachers.

Another universal requirement is that the schools shall be taught in the English language. The teaching of other modern or ancient languages is not prohibited, but on the contrary it is authorized under certain circumstances; but they are taught simply as a branch of study, and are not the language of the school. It has been said that one of the most remarkable features and the greatest work of the free school is its power of assimilation. It draws together the children of all races and

stamps upon them the mark of nationality. It is described as a mill, into which go children of all nationalities and come out Americans. In the new constitution of Louisiana, however, while it is provided that the schools shall be taught in the English language, it is also provided that in parishes where the French language predominates they may also be taught in the French language.

If this is to be carried out, one manifest result must be the division of the school day between the two nationalities, which will of course shorten the school period for both, unless the school term is lengthened in proportion, which in city schools kept up for ten months would be impossible.

Mr. Francis Adams, in his work on the American school system, says:

The most conspicuous feature of the American school system is its representative character. The doctrine of the sovereignty of the people, pervading all American social and political organizations, is carried to its fullest limit in the schools of the country. The principle to which the people are most attached is thus fitly exhibited in the institution upon which they set the highest value.

Again he says:

The widespread popular regard which constitutes the propelling power appears to be chiefly due to two features: government by the people and ownership by the people. It is a vast proprietary scheme, in which every citizen has a share. For no reason is the principle of local government more dearly prized than because of the control which it gives the people over the schools. They would be as ready to surrender all municipal powers and privileges as to transfer their management to a sect or to any other private organization. This recognition of responsibility is the mainspring of the system and the cause of its best results. * * * The simple principle of the American school laws is that the people can be trusted to attend to their own business.

Bishop Fraser, another English writer, says:

Local self-government is the mainspring of the American school system.

Under the New England system the district was the chief source of power. The people had ordained that there must be each year a certain amount of school facilities furnished. Beyond that point the qualified voters of each district were free to act according to their discretion. The majority could extend their schools, divide them into different grades, add to the branches to be taught, build such houses as seemed best to them, the only limit being the amount for which they were willing to tax themselves. In Maine, if the majority proved to be too parsimonious, and refused to vote such sum as in the opinion of the minority it was necessary to raise, the minority were authorized to appeal to the town, and upon such appeal the town might overrule the majority and increase the amount.

This attachment to local control of the schools is undoubtedly one great reason why the people hold so tenaciously to the old district system in the New England States. This principle of local government, however, exists in a majority of the States to a greater or less extent, but in some there will be found school systems where it appears that this principle is not yet fully developed.

In Maryland the State board consists of certain persons who are ex officio members, but one of whom, the governor, is elective, and four others appointed by the governor from the presidents and examiners of the county boards. The county board is appointed by the circuit court, and the county examiner by the county board. The county board is a body corporate and holds all school property in the county. It determines the school districts and appoints for each a board of trustees, who appear to be merely subordinates of the board. The county board controls and manages all the schools. Not a school-house can be repaired unless the county board first fix the amount to be expended therefor.

In Georgia, North Carolina, South Carolina, Texas, and Virginia the system is substantially the same. In Louisiana the parish board, which is appointed by the State board, appears to have entire control. In the District of Columbia the trustees are appointed by the District commissioners, who are appointees of the President of the United States. In none of these localities do the people of the district, as such, have any voice, except in some cases where cities or towns have been vested with special powers as independent school districts.

In Florida and Mississippi the patrons of the school are allowed to recommend the trustees, but under the general school laws of the other States named these officers are selected by appointment. In some of the other States the doctrine that the people can be safely trusted to attend to their own business does not seem to prevail, for a limit has been prescribed to taxation, so that the people may not impose upon themselves too great a tax for the purpose of educating their children. It is not to be assumed, however, that the people of these States are of the class who may be governed but cannot govern themselves.

There is another matter which may with propriety be noticed before proceeding to the consideration of the State codes. While the institution of slavery existed in some of the States a public school system free to all was impossible. The two institutions were too antagonistic in their nature to exist harmoniously in the same community. The enfranchisement of the slaves left them, as the legacy of the institution, with a mass of ignorance to be provided for, and how to provide for it was a problem not easy of solution. Old customs and prejudices were to be adjusted to the new order of things. The war had left them impoverished and in no condition to impose upon themselves pecuniary burdens for any purpose. Their available means bore no proportion to the work to be done. To meet and overcome all the obstacles in the way of a free public school system was a work of no small difficulty. The difficulties which the Southern States were called upon to encounter were such as had never existed in any of the other States.

Whatever may have been the vices of some of the reconstruction governments of these States, their efforts to establish and provide for the free public school system were good and earnest, and must in the end be so acknowledged. The necessity for the work was admitted. The

number of children of school age whose education was to be provided for was all at once doubled, and the addition was of a distinct race, and this race question was manfully met and solved. While as a general rule separate schools are required for white and colored children, they are all classed as children of the State, entitled to equal school privileges and facilities and to their pro rata share of the school moneys. If there are inequalities and discriminations, it would not seem to be the fault of the law, but of its administration, and that must depend for its correction upon the influence of enlightened public opinion.

Two States, however, Kentucky and Delaware, are exceptional. In the school systems of these States the color line is distinctly drawn. In Delaware the schools required by the constitution to be established are established exclusively for white children. The constitution acknowledges no obligation in respect to the education of the colored children. In both States the whites seem to disclaim any pecuniary responsibility in this matter, and no part of their money is allowed to be expended in that direction, except as it may be done in independent city districts, but the cost of the education of the colored children is imposed upon that race alone.

In Kentucky the regular school supervision is made to include the colored schools, while in Delaware the taxes collected from the colored people for the support of colored schools are by law turned over to a private association to be expended by them. In both States the fees for collection of the tax and other expenses are paid out of the colored fund.

ALABAMA.

The constitution requires the general assembly to establish, organize, and maintain a system of public schools throughout the State for the equal benefit of the children thereof between the ages of 7 and 21, separate schools to be provided for children of African descent.

It requires the levy of a poll tax, not exceeding \$1.50 annually, to be applied to the support of schools in the counties where collected, and for an annual State appropriation of not less than \$100,000 for the same purpose. Of the State moneys distributed not more than 4 per cent. can be applied to any purpose except the payment of teachers.

The school laws in force in 1878 provided for a State superintendent elected biennially, a county superintendent for each county, appointed by the State superintendent for two years, and three trustees, elected in each township or school district for the term of four years, these trustees, however, to be superseded in 1879 by a township superintendent in each township, appointed by the county superintendent, with the approval of the State superintendent.

The State superintendent has his office at the State capital and employs a clerk. He has the general supervision of the public schools of the State, is to devote his time to the care and improvement of the schools and the promotion of the general interests of education, prepare and

distribute blanks for school returns, publish and circulate the laws and regulations concerning common schools, visit, if practicable, each county annually, and report to the governor the number of school districts, the number of schools taught, the number of scholars taught and number of children of school age, the amount of school funds received and expended, with a statement of the condition of the schools and with such suggestions and recommendations as he may deem proper. He is to apportion the school moneys to the counties, and keep special accounts with each county and township.

These may be termed the usual duties of the State superintendent.

The county superintendent has general charge and supervision of the schools of the county. In addition, he is to receive, disburse, and account for all county school moneys, apportion the same to the districts, and pay teachers. He is to report to the State superintendent annually, and oftener if required. In connection with two teachers of the county, appointed by himself, he is to examine teachers and conduct teachers' institutes.

In 1878 the district trustees had the immediate supervision of the schools in the district. They were to establish one or more schools for each race, as necessity might require. They were to contract with the teachers to pay a pro rata share of the school fund apportioned to the district according to the number of days' attendance shown in the teachers' report, payment to be made at the expiration of the year, but could not contract for less than three months nor for less than ten pupils of the scholastic age. They were forbidden to draw any warrant in favor of any teacher whose annual report showed an average attendance of less than ten scholars. They might remove teachers, but must allow a pro rata share of the fund at the time of the annual payment. Each two years they were to take enumeration of all children in the district between 7 and 21 years of age and report to county superintendent. These duties in 1879 were to be devolved on the township superintendents before mentioned, with some modifications.

The scholastic year begins October 1 and ends September 30 following. The school month is 23 days, the school day not less than 6 hours.

Districts.

Every township and fraction of a township divided by State or county lines, "or any other insuperable barrier, such as rivers, creeks, or mountains," and every incorporated city or town of 3,000 inhabitants, shall constitute a separate school district.

Every child between 7 and 21 years of age is entitled to admission into, and instruction in, any public school of his own race or color in the township of his residence, or in any public school of his race or color in the State.

In the apportionment of the State school fund the necessary amounts

for contingent expenses and State normal schools are to be first set apart.

Each township is to receive the amount due from the sixteenth section or other trust fund held by the State. Townships having an income from trust funds are not to receive any part of the apportionment until other townships or districts having no trust funds shall have received such sum as will give them an equal share per capita with those having such trust funds.

Each county shall receive the poll tax collected in it, and each race is entitled to the poll tax paid by it.

For Mobile County a board of nine commissioners is provided, one-third to be elected biennially. This board is to elect a president, vice president, and superintendent and to have control and management of the schools. They have full power to continue in force, revise, modify, and improve, as to them may seem fit, the public school system existing in the county. They are made a body corporate, are to receive, assess, and collect all devises, revenues, and taxes for support of the schools, and purchase or lease all property necessary for school purposes and for the proper accommodation of pupils and teachers, the superintendent to have supervision of the schools.

The last general revision of the school law allowed the trustees to select teachers without reference to examination, but a subsequent amendment requires teachers to be examined by a county educational board. Under the restrictions imposed upon the payment of teachers no one can adopt teaching as a means of living unless possessed of sufficient funds to maintain himself for the first year. There is no pay until the expiration of the year, no matter how brief a time the teacher is employed, and even if the teacher has served the full year he may find himself entitled to no compensation if, upon the final summing up of his report, the average attendance is less than the minimum allowance. If this is to be continued the attendance should be made compulsory, under penalties sufficient to indemnify the teacher against any possible loss on account of non-attendance.

ARKANSAS.

Article XIV of the constitution requires the legislature to maintain a general, suitable, and efficient system of free schools whereby all persons in the State between 6 and 21 years of age may receive gratuitous instruction. It also requires that it shall provide by law for the support of schools by taxes, not to exceed two mills on the dollar in any one year and by an annual per capita tax of \$1 on every male inhabitant over 21, and provides for a general law authorizing school districts by a vote of the qualified electors to levy taxes for school purposes not to exceed five mills in any one year.

The school code of 1875, as now in force, provides for the election of a State superintendent biennially, with the usual powers and duties. He is also to prepare and furnish to the county examiner suitable ques-

tions for the examination of teachers, hold teachers' institutes annually in each judicial district, prepare a list of text books for examiners and trustees, may grant State certificates to teachers and prepare three grades of certificates to be issued by county examiners, and is to apportion school moneys to counties semiannually upon the basis of scholastic population.

The county courts are to apportion school moneys to districts upon the same basis and at their first session after each general election to appoint a county examiner.

The duties of the county examiner are to examine and license teachers, encourage the inhabitants to form and organize school districts and establish public schools therein under competent teachers, furnish suitable text books, and send the children to school. He is to number the districts in his county in regular order and keep record of the same and report to State superintendent annually.

Each school district is to elect a board of three directors, with terms so arranged that one is to be elected each year to serve three years.

The directors have charge of school affairs, employ licensed teachers under written contracts, visit schools, submit estimates to district, and report to county examiner annually. Persons elected directors and refusing to serve forfeit \$10, to be added to the school fund.

The revision provides that the boundaries of school districts shall remain as then constituted until changed by the county court.

Each district is vested with corporate powers and holds in its corporate name all lands and property required for school purposes.

The annual school meeting of the district is to be held on the third Saturday of August, at 2 o'clock P. M. All residents of the district qualified to vote for State and county officers are voters in the district meetings. At such meeting they elect the directors (who must be able to read and write), designate sites for school-houses, determine the time that school shall be taught in excess of three months and the amount of tax to be levied by district tax not to exceed one-half of 1 per cent., and, if sufficient money cannot be raised to support a school for three months, may by ballot determine that no school shall be kept.

Three months' school is required by the law. A school month is four weeks of five days each.

Teachers are required to attend the public examinations held by county examiners and to attend teachers' institutes, and no deduction of pay can be made for loss of time when so attending. Teachers' wages have preference over other claims.

CALIFORNIA.

The constitution of 1849 provided for a State superintendent, the creation of a school fund for the endowment of a State university, and for the establishment of a system of common schools by which a school should be taught in each district at least three months in every year.

The new constitution requires the schools to be maintained at least six months in every year and authorizes two counties to unite for school purposes under one superintendent. It declares that the public school system shall include all public schools, but the entire State fund is to be applied for the support of primary and grammar schools, and remits the selection of text books and examination of teachers to the local authorities.

The code in force in 1878 provided for a State board of education, to consist of the governor, State superintendent, principal of the State Normal School, and the superintendents of San Francisco, Sacramento, Santa Clara, Alameda, Sonoma, and San Joaquin Counties, with power to adopt rules for their own government and the government of the public schools and district libraries, and to prescribe the course of study in the public schools.

The State superintendent is elected by the people at the general election, with the usual powers and duties. He is a visitor of orphan asylums and all incorporated literary institutions. His duty is to visit schools in different counties, to report to the controller each year the number of children in each county between 5 and 17 years of age, and to the governor biennially preceding each session of the legislature.

A county superintendent is elected in each county biennially, unless under the new constitution two counties choose to unite for such election. He is to apportion school money to the districts, draw his warrants therefor, and keep record of the same. He is to visit each school in his county at least once in each year, and for every school not visited forfeits \$10 from his salary. He is to preside over teachers' institutes, enforce prescribed course of study in schools, approve or reject plans for school-houses, and in all counties of 20,000 inhabitants to devote his whole time to the duties of his office. In connection with three professional teachers appointed by him he is to examine persons who wish to teach in the county schools. He may require the district trustees to repair school buildings, and if they neglect to provide a school in any district he may appoint the teachers, open the schools, and draw his warrant for the expenses.

There are three trustees in each district, one to be elected each year for three years. They have power to prescribe and enforce rules for the government of the schools, to control and manage the school property of the district, purchase furniture and apparatus, to build school-houses, and purchase lots when authorized by district, employ teachers and fix their compensation, exclude from schools children under 6 years of age, enforce prescribed course of study, keep a register of all children entitled to admission to the schools, and maintain all schools established by them an equal length of time during the year, as far as practicable with equal rights and privileges, and each trustee must visit every school at least once each term. They must use all school moneys exclusively for schools under their direction for the year until at least eight months' school has

been maintained. County school money may be used for any purpose authorized by law, but all State moneys, less 10 per cent. for library, are to be applied exclusively to the payment of teachers.

Writing and drawing paper, pens, ink, and lead and slate pencils for the use of the schools are furnished under direction of the trustees and paid for out of district fund. Books for the children of indigent parents may be also furnished.

Each county, city, or incorporated town, unless subdivided, forms one school district. Each district is designated by name and possesses corporate powers.

Every elector of the county who has resided in the district thirty days is a district voter.

The school census of each district is to be taken annually in June by a census marshal appointed by the trustees. The school year begins July 1, and the school month is four weeks of five days each.

Every school, unless otherwise specially provided, must be open for the admission of all white children residing in the district between 5 and 21 years of age. Children of African descent or Indians are to be taught in separate schools, but if separate schools are not provided they shall be admitted to the other schools.

Unless otherwise specially provided, the schools are to be of three grades, no school to continue in session over six hours a day, and pupils under 8 years are not to be kept over four hours; pupils are admitted in the order of registry.

In cities having graded schools beginners must be taught by teachers of at least four years' experience.

Ten per cent. of the State school fund apportioned to the district, not, however, to exceed \$50, together with any sum added thereto by donation, is to be expended annually by the district board for library and apparatus. Libraries are to be kept in the school-houses when practicable and free to all pupils of suitable age. Any member of the district may become entitled to the privileges on payment of life membership or such monthly fee as may be prescribed.

The county school tax is to be estimated at \$500 for each teacher in the county, deducting therefrom 90 per cent. of the State fund apportioned. The board of supervisors must levy the county school tax, not to exceed 50 cents on each \$100, and not less than \$3 for each census child. If the supervisors fail to levy, the auditor must add the amount to the assessment roll.

The district may by vote raise an additional tax not to exceed 70 cents on each \$100 for building purposes in any one year, and not to exceed 30 cents for other purposes.

The State school moneys are apportioned to the counties in proportion to the number of children 5 to 17 years old. The county superintendent apportions to the districts according to the number of teachers, estimating one teacher to each 100 census children or fraction not less than 15,

\$500 to each teacher. Districts having over 10 and less than 15 census children receive \$300. Any balance remaining goes pro rata to districts having over 50 census children.

To entitle a district to the apportionment there must have been at least six months' school the preceding year, the prescribed text books and course of studies must have been used and teachers holding legal certificates employed.

Female teachers are to receive the same compensation allowed males for like services, and women are eligible to school offices.

Parents or guardians having control of children between 8 and 14 years of age are required to send them to school at least two-thirds of the time the schools are taught. Parents of children deaf and dumb or blind are to send same to State institution for such classes for not less than five years.

Teachers' institutes are held in each county of 20 or more districts annually, and in other counties at discretion of county superintendent. The sessions are to be not less than 3 nor more than 5 days, and teachers are required to attend, and \$100 may be used for expenses.

COLORADO.

Article IX of the constitution requires the maintenance of a uniform system of free public schools throughout the State, wherein all residents between 6 and 21 years of age shall be educated gratuitously, one or more schools to be maintained in each district at least three months in each year.

It also provides for a State board of education; to consist of the State superintendent, secretary of state, and attorney general, a county superintendent in each county to be elected for two years. The legislature is to provide for the organization of school districts of convenient size, in each of which shall be a board of three or more directors, to be elected by the qualified voters of the district, who shall have control of instruction in the public schools of their districts.

The school laws are compiled to 1877.

The State and county superintendents are elected biennially at the general election, with the usual powers and duties.

The districts are divided into three classes: Those containing a school population of over 1,000 are of the first class; those containing a population of less than 1,000 and not less than 350, of the second class; and those of less than 350, of the third class.

Districts of the first class are to elect a board of six directors, and those of the second and third class, three directors, with terms so arranged that one-third shall be elected each year.

Voters at State elections who have resided in district 30 days may vote in district meetings. No resident is denied the right to vote on account of sex.

Each organized district is a body corporate. New districts may be

formed on petition of parents or guardians of not less than ten children of school age.

The district board may employ and dismiss teachers, fix and pay their salaries; prescribe rate of tuition for non-residents, the course of study exercises, and text books to be used; enforce rules and regulations of State superintendent, the length of schools in excess of three months, the number of teachers to be employed, the time for opening and closing the schools; require all pupils to be furnished with the prescribed books; provide books for indigent children and exclude all sectarian books. Text books once prescribed are not to be changed for four years.

The school boards of districts of the first and second class may establish high schools and determine the qualifications for admission thereto. Teachers must hold license from State or county authority.

A public school is one that derives its support wholly or in part from money raised by State, county, or district tax.

Every public school must be taught in the English language, and, except the high schools, be open at least three months in each year for the admission of all children of school age resident in district.

The school year begins September 1. The school month is 4 weeks of 5 days of not more than 6 hours each. The school age is over 6 and under 21 years.

The scholastic census is to be taken by the secretary of the district board annually.

Teachers' institutes are to be held in each judicial district when the county superintendents of two or more counties in the district give assurance to the State superintendent that at least 25 teachers desire to attend one, and \$100 may be applied annually for expenses.

CONNECTICUT.

The constitution provides for a school fund, the interest of which is to be applied to the support of the public schools for the equal benefit of all the people of the State, and prohibits it from being diverted to any other purpose.

The laws as in force in 1879 provide for a State board of education, consisting of the governor, lieutenant governor, and four persons chosen by the legislature—one from each congressional district—for four years, one to be elected each year.

The board has the general supervision of the educational interests of the State and appoints a secretary who acts substantially as State superintendent.

There is no county school organization. Each town, at its annual meeting, elects a board of school visitors, consisting of 3, 6, or 9, one-third to be chosen each year for the term of 3 years, and the town may vest the employment of teachers in this board.

The board are to choose a chairman and secretary and have power to prescribe rules for the classification, management, discipline, and studies

of the public schools, and, subject to the State board, determine the text books to be used. They are to examine and issue certificates to teachers, and may appoint acting school visitors, to consist of the secretary and one or more of the members of the board.

Each town has power to form, alter, unite, or dissolve school districts, but no new district can be formed unless it contains 40 children of school age. Any town may, by vote at annual meeting, abolish all school districts and assume the control of all the schools therein, and for this purpose shall constitute a single school district.

School districts are bodies corporate and hold annual meetings. Qualified voters in the town resident in district are voters, and shall choose a district committee of not more than three, who are the executive officers of the district, and are annually to take census of all children in the district between the ages of 4 and 16.

Public schools are required to be established in every district for at least 30 weeks in each year where the number of persons of school age is 24 or more and at least 24 weeks in other districts. No school is required to be maintained where the average attendance is less than 8.

The schools are to be open to all children over 4 years of age, but the board of visitors may exclude all under 5 years. No person is to be excluded on account of race or color.

If the districts neglect to employ teachers and keep open a school, the board of visitors are to do so, and the expense is to be paid by the town.

Each district or town maintaining a high school, which shall raise by tax or otherwise \$10 or more for a library in any year, shall be entitled to receive in addition \$10 from the State, and the board of visitors are to select the books therefor.

Districts have power to vote taxes for school purposes, but no district is entitled to any share of the State fund unless a school has been kept up as required by law during the preceding year.

DELAWARE.

The constitution requires the legislature to provide by law for establishing schools and promoting arts and sciences.

The school laws as amended to 1875 provide for a State board to consist of the State superintendent, the president of Delaware College, and the State auditor. The State superintendent is appointed annually by the governor.

The State board are to hear appeals and determine finally all matters of controversy between the superintendent and the commissioners or teachers or between commissioners and teachers, prescribe text books, issue uniform series of blanks for use of teachers, and require records to be kept and returns made in accordance therewith.

The State superintendent is charged with the usual duties and is to

engage in no other business. He may also examine teachers, grant certificates, and suspend or withdraw the same for cause, subject to appeal to the State board. The certificates are not to be available until a fee of \$2 is paid to the county treasurer and the certificate countersigned by him. The State superintendent may redistrict or consolidate districts in Sussex County, but not interfere with consolidated districts or incorporated boards.

At the annual stated meeting of each district, after the first, one of a board of 3 school commissioners¹ is to be elected for a term of three years. This provision does not apply to Wilmington or to districts 45 and 46 in New Castle.

The school commissioners shall annually, without regard to any vote therein, levy and collect \$100 in each district in New Castle and Kent Counties and \$60 in each district in Sussex for the support of schools.

The commissioners are to make assessment lists for their districts of all white male inhabitants, receive and collect all moneys of the district, select sites, lease or purchase necessary grounds or buildings, and provide schools for the district when and as long as the funds will enable them to employ teachers.

Teachers are to hold certificates of State superintendent; but this does not apply to schools or districts controlled by an incorporated board, unless by special request of such board.

The act provides that the districts shall remain as constituted at the time of its passage, but they might be altered or divided by the levy court; but no district should be divided unless each part should contain 35 scholars over 5 years of age. Two or more districts may unite for the support of schools for their common benefit.

The stated meeting of the district is to be held in April each year. The district has power to determine by a majority vote what sum shall be raised for school purposes. If the majority so vote, it may be raised by tax; otherwise, by subscription. The tax is not to exceed \$400, exclusive of the fixed sum required to be levied without reference to vote. Districts No. 9 in New Castle County and No. 3 in Kent may raise \$500 and No. 5 in Kent \$400 by taxation. Any district raising \$300 by tax may levy such further sum as may be required for a good school therein, on the rate bill system, by quarterly apportionment on the persons sending scholars to school. Any district which shall raise \$25 in any year by tax or subscription may draw its proportion of State school money.

The State school fund consists of the surplus revenue, 5,000 shares Farmers' Bank, loan of \$80,793.83 to the P., W. & B. Railroad, and loan of \$5,000 to Sussex County, the clear income to be divided equally among the counties. The income of other stocks and securities belonging to the fund, fees for marriage and auction licenses, and other income

¹These commissioners are termed also a school committee.

of said fund to be distributed to the counties in proportion to the population by the census of 1830, after deducting \$30 from share of each county for printing for school convention; the city of Wilmington is to receive one-seventh of the share of New Castle County.

The schools are to be free to all white children over five years of age.

By special act the city of Wilmington is made an independent district, controlled by a board of education of two from each ward. The board are given corporate powers; may rent, purchase, or build houses, and do all acts necessary for instituting and sustaining schools, and may increase the number until they are sufficient to accommodate all white children.

There was no law providing for the education of colored children until the act of March 24, 1875.

By that act the levy court was required to levy annually a tax of 30 cents on each \$100 of the assessments of real and personal property and polls of colored persons as they stand on the lists, the proceeds of the tax to be set apart as a separate and distinct fund for the support of colored schools in the State. This fund was to be paid over to the Delaware Association for the Education of Colored Children and applied by them to the support of colored schools, each county to have the benefit of the amount collected in it.

A subsequent act prohibits the use of any part of this fund by the association for the payment of salaries or expenses of its officers.

FLORIDA.

The constitution declares it to be the paramount duty of the State to make ample provision for the education of all children residing within its borders without distinction or preference, and requires the legislature to provide a uniform system of common schools; for a university and the liberal maintenance of the same; instruction in both to be free.

In addition to the income of the State fund, it requires the levy of an annual State tax of not less than one mill on the dollar and an annual county tax of not less than one-half of the amount apportioned from the State fund. No district is to be entitled to any apportionment unless a school has been sustained therein at least three months.

The school code, as in force in 1877, provides for a State board consisting of the State superintendent, secretary of state, and attorney general.

The State superintendent is appointed by the governor for four years, and is ex officio president of the State board.

The State board has charge of all school lands and funds, and is to use appropriations to the university or seminary fund in establishing one or more departments of the university, commencing with a department of teaching and a preparatory department, to which each county may send pupils in ratio of number of representatives, free of charge

for tuition.¹ It is also to decide upon questions and appeals referred to it by the State superintendent.

The State superintendent is charged with the usual duties of supervision of school interests and apportionment of funds, and is to entertain and decide upon appeals, or refer the same to the State board, as well as to prescribe text books and rules for the management of the department of education.

The county board consists of not more than five, to be appointed by the State board, on nomination of the State superintendent, upon recommendation of the representatives of the county.

The county superintendent is appointed by the governor, with other county officers, for a term of 2 years, and is to serve as secretary and agent of the county board, is to inspect county, ascertain localities in which schools should be established, the number who will attend each, and amount of aid citizens will contribute, present plans for school buildings, and visit and examine schools.

The county board hold and manage all property acquired by county for educational purposes, select sites for school-houses of not less than one acre in rural districts and as near that as possible in cities and villages, purchase, rent, construct, and repair school-houses, locate and maintain schools to accommodate as far as possible all youth between 6 and 21 years of age, employ such teachers as may be satisfactory to the local trustees, grade and classify pupils, establish schools of higher grades when the advancement and number of pupils require, establish and maintain school libraries, apportion school moneys to the districts in proportion to the average attendance, examine teachers, and do all acts necessary for the promotion of the educational interests of the county.

The district trustees are to consist of one and not more than three persons. They are to be recommended by the patrons of the school, selected by the county superintendent, and appointed by the county board, and have special charge of the schools for which they are appointed.

Each county constitutes one school district. Any county or school district neglecting to support a school for three months in the year forfeits its proportion of the State fund.

The county school tax is not to exceed one-half of 1 per cent. in any one year.

Teachers' certificates are granted by the State board, State superintendent, and county board, or by county superintendent when authorized by county board. Certificates may be suspended by the county superintendent and annulled by the authority issuing the same.

The school day is not to exceed six hours; school month, 22 days; school term, 3 months; school year, 3 terms.

¹ Neither of these departments had been established up to the close of 1878, nor apparently in 1879.

The tax assessor is every four years to take census of children between 4 and 21 and between 6 and 21, reporting all deaf-mutes.

GEORGIA.

The constitution of 1877 provides for "a thorough system of common schools," "as nearly uniform as practicable," to be sustained "by taxation or otherwise," and to be free to all the children of the State, but limits the instruction to be given in them to "the elementary branches of an English education only," and requires separate schools for the white and colored races. This last is the only constitutional provision of its kind thus far except in Alabama and Texas.

The school law is the act of 1872 as subsequently amended.

The governor, secretary of state, and State school commissioner constitute a State board, who are an advisory body with whom the State commissioner may consult; also a body in the nature of a court to hear appeals from the State commissioner on any question of construction or administration of the school laws, their decisions to be final and conclusive.

The State commissioner is appointed by the governor, with consent of the senate, and charged with the general duties pertaining to the office. He is to apportion the State school revenue to the counties, upon the basis of the number of youth between 6 and 18 and of confederate soldiers under 30 years of age. His report is to include the statistics of private schools and colleges, as well as those of public schools.

The county board consists of five freeholders—3 to hold for 2 years and 2 for 4 years—who are selected by the grand jury. The county board appoints a secretary, who is to act as county commissioner, with a term of four years.

The county boards are to lay off the counties into subdistricts, and may alter these when necessary. They have the same control of the schools as the county boards in Florida. But where the counties are subdistricted they must appoint 3 intelligent and upright citizens of each subdistrict to act as school trustees for their subdistrict, to serve at first for one, two, and three years, one being subsequently appointed each year.

The county commissioner is to examine teachers, and when approved recommend to county board for license; he is the medium of communication between subofficers and the State commissioner and has general supervision of the schools.

The county board may establish evening schools for the instruction of youth over 12, and may organize one or more manual labor schools in each county on such plan as will be self-supporting. Ambulatory schools are also provided for in counties with sparse population, to continue for 2 months each in contiguous neighborhoods, and to have their terms successive, so that one teacher may serve several schools.

Each county is one school district. Any city of over 2,000 inhabitants or any county, under authority of the legislature, may organize a

public school system independent of this system, but the same reports are required of them as of other districts.

The school census is to be taken every four years, to embrace all children between 6 and 18.

The academic and calendar years are the same. The minimum school term is three months each year.

Admission to all public schools of the State is gratuitous to all children residing in the subdistrict in which the school-houses are located. Schools for white and colored children are to be separate, but, so far as practicable, equal facilities are to be secured to both in respect of the abilities of teachers and length of time taught.

ILLINOIS.

Article VIII of the constitution requires the general assembly to provide a thorough and efficient system of free schools whereby all children of the State may receive a good common school education.

Laws to 1879.

A State superintendent of public instruction is elected by the people every four years and is charged with the usual powers and duties. A county superintendent is also elected for four years, with general supervision of county schools and to have charge of school lands therein.

Every congressional township is made a township for school purposes under control of a board of three trustees, to be elected by legal voters; term of office, 3 years. Must be 21 years of age and residents of township. No two, when elected, to be residents of the same school district. Women over 21 are eligible. Board vested with perpetual corporate powers. Meetings to be at least semiannual.

They are to lay off township into one or more districts, and upon petition of 50 voters establish high school. School fund to be apportioned to district in proportion to number of children under 21; in new districts set off from older ones, in proportion to the amount of taxes collected in them the year before the division. Trustees to report to county superintendent usual school statistics.

Annual meeting of school districts to be holden in April each year. A board of three directors to be elected for 3 years' terms, one each year, subject to change or reëlection.

The directors may levy a tax annually, not to exceed 2 per cent. for educational and 3 per cent. for building purposes, for establishing and maintaining schools for not less than 5 nor more than 9 months each year, and defraying expenses of same. After necessary school expenses are paid they may appropriate surplus to libraries and apparatus. The directors and not the district are the body corporate.

They are to establish and keep in operation for at least 110 days a sufficient number of schools for the accommodation of all children over 6 and under 21, and shall secure to such children the right and oppor-

tunity for an equal education in such schools;¹ may adopt and enforce necessary rules and regulations; appoint all teachers and fix their compensation; assign pupils to the several schools; direct studies and text books to be used; shall strictly enforce uniformity of text books, but not permit changes in same oftener than once in four years; no child excluded on account of color.

No teacher to be employed unless he holds proper certificate. Teachers' wages are payable monthly on return of report; not required to teach on Saturdays or legal holidays, nor to make up time of special holidays ordered by directors. School month, calendar month.

The State common school fund consists of 2 mills tax, 3 per cent. of net proceeds of sales of public lands, and interest on surplus revenue fund, to be apportioned to counties on the first Monday of January each year by the State auditor.

In school districts of over 2,000 inhabitants, instead of directors a board of education of 6 may be elected, with 3 to be added for every additional 20,000 inhabitants.

In cities of over 100,000 inhabitants the schools are under the control of a board of education, with a city superintendent. The purchase of lots and erection of houses to be with the concurrence of the city councils.

The presidents or principals of all colleges, academies, and educational institutions to report to State superintendent. The State superintendent may visit all educational and charitable institutions, and superintendents of same are to report to him.

State and county normal schools are established and provided for.

INDIANA.

Article VIII of the constitution declares that "knowledge and learning, generally diffused throughout a community, being essential to the preservation of a free government, it shall be the duty of the general assembly * * * to provide by law for a general and universal system of common schools wherein tuition shall be without charge and equally open to all."

Laws to 1879.

The State superintendent is elected for two years and has general supervision of State system.

The governor, State superintendent, the presidents of the State University and Purdue University, principal of State normal school, and superintendents of the three largest cities to constitute State board of education, of which the State superintendent is ex officio president.

The county superintendent is elected biennially by vote of township trustees in convention, and, with township trustees, constitutes county board of education.

¹ Exclusion of children on account of color is expressly forbidden.

Each civil township and each incorporated town or city are school districts with corporate powers.

The common council of each city and board of trustees of each incorporated town, at their first meeting in June each year, are to choose school trustees to serve three years, one to be chosen each year.

The school trustees are to organize by the election of a president, treasurer, and secretary of their own number.

Trustees are to receive revenue and keep account of same; to take charge of school affairs of township; employ teachers; procure or build houses and furniture; establish and grade schools; and have care and management of all school property. In incorporated cities or towns may employ superintendent, and trustees of two or more municipal corporations may establish joint graded schools. May levy tax for any school purpose, except tuition, not to exceed 50 cents on \$100, and \$1 poll tax, and are to make annual enumeration of children between 6 and 21, distinguishing between white and colored. All taxpayers of the district and persons transferred for school purposes are voters at school district meetings, except minors and married women. The voters are to meet annually in October and elect a director who is a voter, and may determine time school is to be taught and what additional branches.

The school year begins on the first Monday in July, and the tuition revenue is to be expended in the school year. No teacher to be employed or to commence school unless licensed by State or county authority.

Text books are prescribed by county board; formerly were not to be changed for three years after adoption. By a law of 1879 may not be changed till the end of the time for which they were adopted, and then new adoptions must be for 10 years.

Township institutes to be held one Saturday in each month, county institutes in each county annually.

The school term is 60 days; month, 20 days; week, 5 days.

Schools to be taught in the English language. German may be taught on request of parents of 25 children.

Township trustees may organize separate schools for colored children, having same rights, privileges, and advantages as the other schools. If no separate schools are provided, they are to be admitted to other schools. Any colored child sufficiently advanced is entitled to enter the higher grade provided for white children. There is to be no distinction in same on account of race or color.

In cities of 30,000 or more, each district is to elect one commissioner to be a member of the board of city school commissioners. The common council is to divide city into districts. City board to organize and elect president, secretary, and treasurer. One-third of board to be elected each year for term of three years. The board to have full charge and control of schools in city. Cities of less than 30,000 may adopt this system.

IOWA.

The constitution requires that a system of common schools shall be provided for, under which a school shall be kept up and supported in each district for at least three months in every year.

The State superintendent is elected for two years by the people, and is charged with general supervision of schools and county superintendents.

County superintendents are elected by people for two years.

In addition to usual duties, they are to report to the superintendent of college for blind names, age, and residence of all persons blind to such an extent as to be unable to acquire an education in the common schools, and also of deaf and dumb in same condition to the superintendent of the institution for deaf and dumb.

Each civil township and each independent district organized prior to the act is declared to be a school district with corporate powers.

Each district township to hold annual meeting on the second Monday in March. In townships comprising one district three directors are to be elected. When divided into subdistricts, one director is elected for each and one at large, who are to constitute the township board of school directors. The township board may divide town into subdistricts. Subdistrict meetings for choice of directors are held the first Monday in March annually. No subdistrict for less than 15 pupils is to be created. Women are eligible to school offices.

Township boards are invested with charge and control of schools and school-houses, but cannot change text books oftener than once in three years except by vote of electors.

In each subdistrict shall be taught one or more schools for the instruction of all youth between 5 and 21 for at least 24 weeks, of 5 days each, every year. Any person who was in the military service of the United States during his minority may be admitted.

Contracts with teachers to be in writing. No person to be employed unless holding certificate of county superintendent.

School month of 4 weeks of 5 days each. Schools to be closed during sessions of institute and teachers required to attend. By vote at any legal meeting, electors may direct German language to be taught.

The county supervisors are to levy a county tax for support of schools of not less than one nor more than three mills on the dollar; also the district tax which may be voted; the district tax for school-house fund not to exceed ten mills; contingent fund not to exceed \$5 per pupil; teachers' fund, including semiannual apportionment, not to exceed \$15 for each pupil residing in the district. May levy \$75 for contingent fund and \$270, including semiannual apportionment, for teachers' fund each year for each subdistrict.

The county auditor is to apportion semiannually to the several districts the county school tax and interest on permanent school fund in

proportion to number of persons between 5 and 21, and county treasurer to pay to district treasurer quarterly.

Cities or towns of not less than 300 inhabitants may be constituted independent districts. Independent districts of less than 500 to elect 3 directors—of 500 and over, 6 directors—one-third each year, with powers of township boards.

Counties with a population of 2,000 may establish high schools, to be controlled and managed by 6 directors chosen at a general election, the county superintendent to be president of board. Tax therefor not to exceed five mills.

County superintendent to visit schools once and subdirector to visit them twice each term; enumeration to be made by subdirector.

The State university is governed by a board of regents, consisting of the governor, State superintendent, president of university, and one person from each congressional district, elected by general assembly. The course of study to commence at points where completed in high schools.

KANSAS.

Article VI of the constitution provides that the legislature shall encourage the promotion of intellectual, moral, scientific, and agricultural improvement, by establishing a uniform system of common schools, and schools of a higher grade, embracing normal, preparatory, collegiate, and university department.

Laws to 1879.

The State board of education consists of the State superintendent, chancellor of State University, president State Agricultural College, and principals of normal schools at Emporia and Leavenworth, who may issue State diplomas and certificates to professional teachers.

A State superintendent is elected biennially, charged with usual duties and to recommend list of approved text books.

County superintendents elected biennially by people to have charge of school interests of the county, to divide county into convenient school districts, and may change and alter the same, but no new district to be formed unless it contains 15 scholars of school age.

Every district is a body corporate, and deemed to be duly organized when district board is elected and qualified. Annual meetings of district to be held in August. All persons who are qualified electors and females over 21 are voters in district. The district board consists of a director, clerk, and treasurer, one to be elected each year.

The district by vote determines sites of school-houses; may raise tax not exceeding 1 per cent. for building purposes and 1 per cent. for teachers' fund; determines time school is to be taught, not to be less than 3 months, and whether by male or female teachers; appropriates money for summer or winter school or both; and may direct sale of lot when not needed for school purposes. Two or more districts may unite to es-

establish graded schools by major vote, and have powers of district. May vote tax not exceeding 2 mills for a district library, to consist of works of history, biography, science, and travels. The district clerk to make annual report to the annual meeting, which he is to submit and read to the legal voters of the district. The district board are to employ and may dismiss teachers; to visit schools at least once each term; shall require uniform text books to be used in each branch of schools; when adopted, no change to be made for five years, unless upon petition of four-fifths of legal voters of district.

Common English branches to be taught in every school district, with such others as district board may direct.

School month, 4 weeks of 5 days of 6 hours each.

Schools to be at all times equally free and accessible to all children over 5 and under 21 resident in district, subject to such regulations as district board may prescribe. Whenever the public money is not sufficient to support schools for the length of time determined by the district, the district board may assess a tuition fee upon each scholar attending, to meet such deficiency, but not until the entire 1 per cent. for teachers' fund has been assessed.

A normal institute for the instruction of teachers is to be held annually in each county.

The county superintendent and two persons appointed by county commissioners are to constitute a county examining board for examination of teachers.

Cities of over 15,000 inhabitants are denominated cities of the first class, and the schools are controlled by a board of education of three from each ward, elected by voters of ward, one each year. Board may elect a city superintendent and appoint their own examining committee. The whole city is to constitute one district for purposes of taxation, but may be divided into subdistricts by the board. Cities of over 2,000 and not exceeding 15,000, of second class, with board of two from each ward, one elected each year, with similar powers.

KENTUCKY.

The constitution provides for the preservation of the school fund and the distribution of the revenue from it, with any sum raised by tax or otherwise in aid of common schools, and for the election of a superintendent of public instruction to hold office for four years.

The school code, as amended up to 1878, provides for a State board of education, to consist of the State superintendent, secretary of state, attorney general, and two professional teachers elected by them, who are made a body corporate; the State superintendent and two professional teachers to be a standing committee to propose rules and determine text books to be adopted at discretion by trustees. The State board may organize and keep in existence a State teachers' association, but no money is to be paid out of the treasury or common school fund therefor. The State superintendent is charged with the usual duties.

A county commissioner of common schools for each county, with one for the city of Louisville, is to be appointed for a term of two years by the court of claims.

The county commissioner may lay off and abolish districts, examine and pay teachers, suspend or remove same for cause, and have general charge of schools of county; may select uniform series of text books from the list furnished by State board, not to be changed for two years, and the district trustees are bound by the selection when made;¹ and shall hold a teachers' institute in his county annually. Teachers, and all persons holding certificates as such, are required to attend.

Persons applying for examination are to pay \$1 to county board, or \$3 if to State board. Every person attending institute to pay fee of \$2.

The county commissioner, with the consent of the white voters of any district, may condemn school-house, and a per capita tax of not exceeding \$2 on each white male over 21 may be levied to rebuild the same. Where such amount is inadequate, the trustee may warn in the hands liable to work on the highways for the purpose of rebuilding. The house may be built of logs, stone, brick, or plank, but must be of sufficient size to accommodate the children. If a fireplace is used, the chimney must be of stone or brick; if a stove is to be used, the pipe must be so protected as to be secure against liability from fire.

School districts are to remain as constituted until changed as provided by the act. No district to include more than 100 white children between 5 and 20 years of age, unless it contains a town or village or there be established a high school, academy, or college entitled to a share of the State fund, and none with less than 40 such children.

Cities and towns establishing and maintaining schools adequate for all white children in it shall be deemed one district.

Each district is a body corporate, and its affairs are managed by three trustees, one to be elected annually. Aside from the usual duties, they are charged to invite and encourage all white scholars to attend the schools, to instruct parents that it is their right for which the State pays, even though they may contribute nothing; and their annual report must show that they have performed this duty. They must not make any arrangement for the benefit of some individuals to the exclusion of others. They are to take a census of *white* children between 6 and 20 in April of each year.

Colleges and educational institutions exclusively devoted to the education of white children may be made school districts and receive State school funds for teaching youth of school age.

Where, by contribution or otherwise, 40 volumes can be procured, the trustee may organize a district library; but no part of school revenues derived from general taxation can be used for the purchase of

¹ In the examination of teachers and choice of text books, the commissioner has the aid of two assistants, selected by himself.

books, maps, or charts for the same. The library to be free to all white pupils of suitable age belonging to the district.

A poll or per capita tax of not more than 50 cents per annum may be levied on each patron of the school for fuel and contingent expenses.

The income of the State fund is distributed pro rata for each white child between 6 and 20.

A majority vote of qualified white voters is required to levy a district tax. Any resident widow or alien taxpayer or person having children of school age may vote. District tax not to exceed 25 cents on \$100 in any year, and in graded school districts not to exceed 30 cents. Under a law of April 9, 1878, a tax, after due notice to the district, may be voted for five successive years.

No school to be deemed a common school or entitled to contribution out of the school fund unless the same has actually been kept by qualified teachers for five months, or in districts having minimum number (40) of school children, three months during the school year, and at which every white child between 6 and 20 has had the privilege of attending. The school year begins July 1; school month, 22 days.

Prior to 1874 there was no law providing for the education of colored children. At that time an act was passed providing for a uniform system of common schools for colored children, to be supported exclusively by taxes to be levied upon colored people.

The revenue arising from this source is distributed annually by the State superintendent to the counties, and the county commissioner is responsible for its proper distribution.

The county commissioner is to lay off his county into suitable districts, not to exceed 100 nor less than 20 children of school age, and appoint three colored trustees for each district. The teachers are required to hold certificates the same as for white schools. No colored child is allowed to attend a white school, nor any white child a colored school. No house for colored school can be erected within one mile of a white school, except in cities and towns, and there not within 600 feet. The officers and teachers of colored schools may organize State and county associations. The census of colored children is to be taken in the same manner and at the same time as that of the white children.

The State board is to prescribe the course of study and rules for the government of such schools. The State superintendent is to furnish blanks, and is authorized to employ an additional clerk at \$700 per annum, paid out of fund collected. Five per cent. of the tax is deducted for collection. The county commissioner is allowed 1 per cent for disbursing, and \$3 for each colored school visited are also to be paid out of colored fund. The fund is thus subject to large reduction.

LOUISIANA.

The constitution of 1868 required the establishment of at least one free public school in every parish, free to all children of the State be-

tween 6 and 21, without distinction of race, color, or previous condition. It forbade the establishment of any separate schools or institutions of learning by the State exclusively for any race, and provided that institutions for the education of the deaf and dumb should be fostered by the State.

The new constitution of 1879 requires schools to be established for the education of all children between 6 and 18, to be under the control and direction of parish boards of directors. Each parish board is authorized to appoint a superintendent of its schools, who shall be secretary of the board; the entire system to be under the supervision of a State superintendent chosen for four years.

It requires the general assembly to provide for the support of schools by taxation or otherwise, but at the same time provides that the State tax for all purposes shall not exceed 6 mills. A poll tax is to be levied of from \$1 to \$1.50 on every male over 21. Four per cent. interest on the full school fund of \$1,130,867.50 is to be paid annually to the several parishes for the support of schools, but this interest is to be paid out of the tax to be levied and collected for the general purposes of education. Schools are to be taught in the English language, but in parishes where the French predominates they may also be taught in that language. Women over 21 are made eligible to office under the school laws.

The school law of 1877 provides for a State board of education, to consist of the governor, lieutenant governor, secretary of state, attorney general, State superintendent, and two citizens. They are to prescribe text books and apparatus, not to be changed oftener than once in four years, contract for same with lowest bidder, to be furnished pupils at lowest prices; also, to appoint a board of directors of not less than 5 nor more than 9 for each parish except New Orleans for terms of four years, and fix the branches to be taught in public schools.

The State superintendent is charged with the usual duties.

The parish board appoint from their own number an examining committee, and no teacher can be employed without their certificate. They are required to limit the annual expense of the schools to the revenue derived from the State, parish, or from contributions. They are to divide the parish into subdistricts, provide school-houses, employ teachers, and have control and supervision of schools. Annual and monthly visiting committees are to be appointed by the board, and each school is to be visited monthly.

The public schools of New Orleans are under the control of a board of 20 directors, 8 appointed by the State board and 12 by the city board of administrators. The city board appoint a superintendent for a term of four years, who is ex officio a member of the board, but without vote. They may establish night schools and two or more normal schools.

City and parish boards are to establish schools; no school to be of less than 10 pupils, and not over 60 pupils to be in charge of one teacher. The State board prescribe branches to be taught.

The directors may levy a parish tax of not exceeding 2 mills, but parish tax not to exceed 1 per cent. for all purposes. May levy tax in New Orleans of 2 mills, but not to exceed \$275,000.

Enumeration of children of school age to be taken biennially in each district.

The new constitution apparently omits some important requirements of the old, and leaves them in the discretion of the parish board. Until they shall take action in the premises, it cannot be known what changes will be made, nor what effect they may have upon the present system.

MAINE.

The constitution makes it the duty of the legislature to require the several towns to make suitable provision for the support of schools, and from time to time, as circumstances may authorize, to encourage and suitably endow academies, colleges, and seminaries of learning.

School laws as in force, 1878.

The officers of the school system are a State superintendent, appointed by the governor and council, town superintending committees, or town supervisor with same powers, and district agents.

The term of office of State superintendent is three years, and he has general supervision over all public schools of the State. The towns at their annual meeting are to choose a superintending committee of 3, one to be elected each year to serve 3 years.

The town may determine number and limit of school districts, or abolish the same, and assume control of all schools within its limits; may choose agents for districts, or authorize districts to choose them, and may authorize agents to employ teachers instead of superintending committee.

When the town has abolished the district system, the superintending committee have control and management of schools; where divided into districts, the general supervision of same.

Towns are required to raise not less than 80 cents for each inhabitant, exclusive of income of corporate school fund, State moneys, &c., under penalty of forfeiture of not less than twice nor more than four times the amount; and may make provision for free industrial or mechanical drawing in day or evening schools.

They may also raise money to purchase text books for pupils or sell them to pupils at cost.

School districts that have exercised privileges and franchises for one year to be deemed legally organized; all districts, corporations; qualified voters of town resident in district, voters therein.

Annual meetings to be held to choose moderator, clerk, and agent, unless agent is chosen by town.

The district by vote at its legal meetings controls all its affairs; but if it refuse to keep up the school for the required time or to provide

proper houses, the town is authorized to interfere and do it, assessing cost on the district.

Where the minority are of opinion that the amount raised by the district is insufficient, they may appeal to the town, who may raise the money required.

The superintending committee of the town have the general supervision of the schools, examine teachers, select and prescribe text books, not to be changed for five years, visit and examine schools twice each term, classify and determine description of scholars who are to attend each school.

The agent is to take school census of children between 4 and 21 annually. If he neglects to make return the school committee must make the enumeration.

The towns alone are responsible for the support of schools and payment of instructors. The school district agent is the agent of town for the transaction of business in the district. (26 Me. Rep. 56.)

Any town establishing and maintaining a high school for not less than ten weeks in any year is entitled to receive from State one-half the expense thereof, not to exceed \$500 to any one town.

Normal schools for education of teachers are provided for.

MARYLAND.

The constitution requires a free school system uniform throughout the State, with schools to be kept open in each district for at least six months each year.

The school law of 1872, as subsequently amended.

The State board of education consists of the governor, principal of State normal school, and four others, to be appointed by the governor from the presidents and examiners of county boards.

The State board has the care and supervision of public school interests; is to see that the law is executed, issues uniform series of blanks for returns, makes by-laws for administration of school system; may grant certificates to professional teachers, and the members of the board are ex officio trustees of State normal school, and all schools and colleges receiving State aid are to report to the board.

The county board of commissioners consists of three, or, in counties of over 100 schools, five persons appointed by the circuit court of the county for a term of two years.

The county board, a body corporate to take and hold all property now vested in the public school authorities of any county, is to have control and management of all schools in county; fix salaries of teachers, purchase and distribute text books; when the county is not properly divided into districts, to appoint a committee to divide the same. The commissioners are to select sites and prescribe plans of school-houses; may authorize German language to be taught, and employ assistant

teachers in schools numbering over 50 scholars—one teacher for every additional 40 scholars. May establish graded schools in districts of over 100, and may close schools when average attendance is less than 10. Shall adopt and may prescribe text books; may authorize delivery of books to pupils under such rules as they may adopt, no pupil to pay more than \$1 per quarter for use of same.

The county examiner is appointed by the board, and, if required, must receive the certificate of State board. He is to examine teachers, but no male under 19 or female under 17 can receive a certificate. He must visit schools three times each year if the number is 50 or less, and twice if the number is over 50, and report quarterly to the board. A public examination of each school is required twice each year.

Three trustees are appointed for each district by the county board, who are to have care of school-houses and attend to repairs of same, the amount of repairs to be determined by the county board before being made; appoint qualified teachers, subject to confirmation of county board, and report quarterly to county board.

One or more schools to be kept up in every district, if possible, for ten months each year, free to all white children between 6 and 21. To the ordinary elementary branches the trustees may add algebra, book-keeping, natural philosophy, vocal music, physiology, and laws of health and domestic economy.

The schools are to be kept open each week day except Saturday, six hours each day. The school year consists of four terms—fall, winter, spring, and summer—time of commencement and close to be fixed by the county board.

High schools may be established by the county board, to be under care of 3 high school commissioners appointed by the board, with powers of district trustees.

The mayor and council of the city of Baltimore are authorized to establish in said city a system of free public schools, and do any and every act necessary therefor; may delegate supervision and control thereof to a board of school commissioners, and may levy and collect tax to defray expenses thereof.

A State normal school is established, supported by annual State appropriations. The principal of normal school to hold teachers' institute in each county annually. District, county, and State teachers' associations are recommended, and district libraries, for which latter the county board is to pay \$10 annually, provided the district shall raise an equal amount or more.

The county board are also to establish schools for colored children between 6 and 20 years of age, to be kept open the same length of time as other schools, each to be under control of a special board of trustees, to be appointed by the county board. The State moneys are to be apportioned to colored schools at same time and in same manner as to other schools. The total amount of taxes paid for school purposes by

the colored people of any county or in Baltimore also to be devoted to the support of colored schools.

The State tax for school purposes is 10 cents on each \$100, no money to be apportioned to any county unless the schools are kept open at least seven and one-half months in the year.

MASSACHUSETTS.

The constitution declares that "wisdom and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this Commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools, and grammar schools in the towns."

It further ordains that all moneys appropriated by the State or raised by taxation in the towns and cities for the support of public schools shall be applied to and expended in no other schools than those conducted according to law, and under the order and superintendence of the authorities of the town or city in which the money is to be expended, and never appropriated to any religious sect for the maintenance exclusively of its own school.

Another amendment precludes from voting and from eligibility to office all who cannot read the constitution in the English language and write their names, unless from physical disability, but not taking away their existing right to vote.

School laws as amended to 1878.

The board of education consists of the governor, lieutenant governor, and eight persons appointed by the governor and council for the term of 8 years, one retiring each year in the order of appointment. It appoints a secretary, who is the executive officer of the board, substantially performing the duties of a State superintendent. It may also appoint agents to visit the towns, inquire into condition of schools, and confer with committees or teachers, and generally perform same duties as the secretary might do if present. It prescribes the form of school registers to be kept in the schools, the forms of blanks and inquiries for returns of school committees, has general supervision of school matters, and reports each year to the legislature. The State board also has charge of State normal schools. The other officers are the town school committee, to consist of any number divisible by 3—one-third to be elected by ballot each year for the term of 3 years, at the annual town meeting—who are to have general charge and superintendence of all public schools in the town. No person is ineligible on account of sex.

The school district system has been generally abolished in the State,

but is retained in a few of the towns, and the schools are substantially carried on under the town system.

Every town is required to maintain at the expense of said town, for at least six months each year, a sufficient number of schools for the instruction of all children who may legally attend public school therein, under a teacher or teachers of competent ability and good morals.

The branches to be taught are orthography, reading, writing, English grammar, geography, arithmetic, drawing, history of the United States, and good behavior, to which the school committee may add, in such schools as they deem expedient, algebra, vocal music, agriculture, physiology, and hygiene.

Any city or town may, and every city or town having over 10,000 inhabitants must, annually make provision for giving free instruction in industrial or mechanical drawing to persons over 15 in day or evening schools, under the direction of the school committee.

Every town may, and every town of 500 families or householders must, besides the schools heretofore prescribed, maintain a school to be kept by a master of competent ability and good morals, who, in addition to the branches before mentioned, shall give instruction in book-keeping, general history, surveying, geometry, natural philosophy, chemistry, botany, civil polity, and the Latin language; such school to be kept for the benefit of the whole town 36 weeks at least in each year, exclusive of vacations, and in every town of 4,000 inhabitants the teachers of such school shall be competent to instruct in astronomy, geology, rhetoric, logic, intellectual and moral science, political economy, and in the Greek and French languages.

Cities and towns may establish industrial schools to be under the control of the school committee, but attendance on such schools is not to take the place of attendance upon the public schools required by law.

One or more female assistants are to be employed in every school having an average of 50 or more scholars, unless the town by vote dispense with such assistants.

Towns neglecting to raise money for the support of the schools required by law shall forfeit a sum equal to twice the highest sum ever before voted for schools therein. Towns neglecting to choose school committee forfeit not less than \$500 nor more than \$1,000, forfeitures to be paid into county treasury, and three-fourths of same to be turned over to school committee, if any, or to selectmen, and used for support of schools in same manner as if raised by tax.

The school committee are to supervise schools, direct what books are to be used, prescribe as far as practicable the course of study and exercises to be pursued, procure at expense of town sufficient supply of text books to be furnished to pupils at cost; may procure at expense of town such apparatus, books of reference, and other means of illustration as they may deem necessary in accordance with appropriations made therefor. Cities or towns may authorize committee to purchase

text books for use in schools, to be the property of the city or town, and to be loaned to pupils under such regulations as they may prescribe.

Any city or town may require committee to appoint a superintendent who, under their direction, shall have care and superintendence of the schools.

Towns not divided into districts to provide and maintain a sufficient number of school-houses for the accommodation of all children therein entitled to attend.

School census to be taken in May each year of all children between 5 and 15. No person excluded from schools on account of race, color, or religious opinions of applicant or scholar.

There are compulsory requirements as to sending to school children from 8 to 14 years of age, and through the aid of truant officers in towns these laws have been made remarkably effective, the enrolment in the schools for several years past having considerably exceeded the number of children of school age.

MICHIGAN.

The constitution requires the legislature to provide for and establish a system of primary schools to be kept without charge for tuition at least three months each year in every district.

It also provides for a superintendent of public instruction and a State board of education, of three members, one to be elected at each biennial election for the term of six years. The State superintendent is ex officio a member and secretary of board, which has especial supervision of the State normal school. The constitution further directs the legislature to provide for township libraries, and applies for the support thereof all fines for breach of the penal laws of the State.

The State superintendent is elected biennially, and charged with general supervision of public instruction: to visit and report upon the State university, all incorporated literary institutions, primary and normal schools, and State reform school; to prepare list of books best adapted to use of schools and for township libraries.

There is no county organization under the present law, the office of county superintendent having been abolished in 1875.

At the annual meeting of each township in April are to be elected a school inspector and school superintendent, who, with the township clerk, are to constitute the township board. The superintendent is chairman of board, is to examine teachers, visit schools at least twice each year, is subject to rules and regulations of State superintendent and to report to him. Each organized township to maintain a library, which may be divided into district libraries.

The township board is to divide township into convenient districts, and may alter and regulate boundaries. No district to be divided and no two districts consolidated without vote of a majority of taxpayers.

Every person over 21 who has been a resident for three months and

holds property liable to tax, is a voter. All persons entitled to vote at township meetings who have resided in district three months are eligible to office and may vote on all questions, except when raising of tax is in question. School districts are deemed to be organized when any two of the three officers have filed acceptance of office.

The district by vote provides school-houses, imposes taxes, determines length of schools, whether to be taught by male or female teachers, and provides for repairs, purchase of apparatus, libraries, and for payment of debts and liabilities.

The tax for building purposes in any one year is limited to \$250 in districts containing less than ten children of school age, to \$500 in districts of over ten and less than thirty, and to \$1,000 unless over fifty. Schools must be maintained not less than nine months in districts of 800 children of school age, five months in districts of from 30 to 800, and three months in districts of less than 30. In districts of less than 30 children of school age amount raised for entire support of schools, including share of school fund and two mill tax, not to exceed \$50 per month. If district refuses or neglects duties, town board are to perform same. The director, or such person as the board may appoint, is to take census of children between 5 and 21. District board to employ qualified teachers.

The school year commences on the 1st Monday of September in each year; school month, 4 weeks of 5 days each.

Town boards to adopt text books not to be changed for 5 years; no money to be paid to towns until books so adopted are used, and proportion of 2 mill tax forfeited if schools not maintained as provided by law.

All residents of a district five years of age have equal right to attend any school therein, and no separate school or department to be kept for any race or color. This provision not to prevent grading of schools.

Graded schools may be established in districts of more than 100 children by two-thirds vote, to be controlled by board of trustees, one-third to be elected each year, with powers of district board. By act of April 17, 1871, a State public school for dependent and neglected children was established and placed under supervision of a board of control of eight persons appointed by the governor, one to be appointed every two years.

Its object is to receive children over 4 and under 16 years of age who are in a suitable condition of mind and body to receive instruction and who are neglected and dependent, especially those maintained in county poorhouses or who are abandoned by parents, orphans, or whose parents have been convicted of crime.

Such children are to be maintained and educated in the branches taught in the common schools, and to have proper physical and moral training. The declared object is to provide temporary homes until homes can be found in families. It is the duty of the board of control

to provide suitable places for them when sufficiently educated, and it is made the legal guardian of such children and may bind them out.

Whenever there is a vacancy in such school the superintendents of the poor are to bring the children in the poorhouses, or other children in want or suffering, or abandoned or improperly exposed, or in any orphan asylum whose officers desire to surrender them, for examination before the judge of probate, who is to determine the facts as to dependency. The superintendents of poor are to forward children to such school.

MINNESOTA.

Article VIII of the constitution recites that, "the stability of a republican form of government depending mainly on the intelligence of the people; it shall be the duty of the legislature to establish a general and uniform system of public schools;" and it requires that "the legislature shall make such provisions by taxation or otherwise as, with the income arising from the school fund, will secure a thorough and uniform system of public schools in each township of the State."

Laws to 1877.

The State superintendent is appointed by the governor, with consent of senate, for 2 years, charged with usual duties.

A county superintendent is elected for each county for 2 years, who is to examine teachers and have general supervision of schools of his county. In counties containing over 100 districts he may appoint an assistant.

The district system has been adopted in this State. Every district is presumed to be legally organized after it shall have exercised the privileges and franchises for one year. Districts are classified as follows: First, common school districts; second, independent districts; and, third, special districts. The county commissioners may form new districts.

Legal voters of district are to choose moderator, director, clerk, and treasurer; the director, treasurer, and clerk to constitute the district board. Women may vote in district meetings.

The district to provide houses and grounds, establish schools, and raise money by tax. Tax for building purposes not to exceed 8 mills in any one year, but may raise \$600 if it does not exceed 25 mills. Districts of less than ten voters may raise \$200 only.

District board may levy tax if district neglects, hire teachers, and have charge of schools.

Independent districts to be under the control of six directors, two elected each year; to keep schools in operation not less than 12 nor more than 44 weeks each year; to appoint board of examiners, who are to examine teachers and visit and examine schools in such districts.

All schools supported wholly or in part by the State school fund to be deemed public schools, and admission to the same shall be free to all persons between 5 and 21 residing in the district; none to be excluded on account of color, nationality, or social position.

School month, 4 weeks of 5 days each.

A county tax of 1 mill, all fines for breach of penal laws, and amount of liquor licenses to be county school fund.

The State contracts for text books; the counties to pay for amount ordered by them at the prices fixed. Books so procured are to be used in schools and not changed for five years; \$50,000 set apart as a text book fund for this purpose.

The State normal schools are under control of board of 6 directors, 3 appointed every 2 years by governor and senate; supported by State appropriations; tuition free to State pupils who engage to teach for two years.

MISSISSIPPI.

The earlier constitutions contained the declaration that, "religion, morality, and knowledge being essential to good government, the preservation of liberty, and the happiness of mankind, schools and the means of education shall forever be encouraged."

Article VIII of the constitution of 1868 required the legislature to establish a uniform system of free public schools for all children between the ages of 5 and 21, and as soon as practicable schools of a higher grade, one or more schools to be maintained in each school district at least four months in every year. It also provided for a State board, State superintendent, county superintendent, and for the establishment of a common school fund; and in addition thereto the legislature was authorized to levy a poll tax not exceeding \$2 and provide for the levy of such other taxes as should be required to properly support the school system, all school funds to be divided pro rata among children of school age.

School laws to 1878.

The State board have the management and investment of the school fund, and are to report its state and condition each year. The State superintendent is elected every four years, has general charge and superintendence of school system, and is to determine true intent and meaning of school laws, rules, and regulations, his decision to be final unless reversed by State board.

The county superintendent is appointed by the State board for two years, has supervision of schools in county; he is to arrange the schools of his county so that suitable school facilities shall be afforded to every child of school age, to examine teachers, and open and close schools so that equal number of days shall be given to all schools in the county.

The patrons of the school are to elect 3 trustees to manage district

affairs. In incorporated towns the mayor and aldermen are to appoint trustees.

Every county constitutes a school district. Towns of 1,000 may constitute an independent district.

County superintendents are to procure certificates of qualification from the county board of examiners, consisting of 3; one appointed by county supervisors, one by chancellor of district, and one by the judge of the circuit court.

Ample free school facilities are to be furnished to all of school age, but white and colored are to have separate houses. Schools to be taught five months in each year, but the time may be reduced to four months when the aggregate tax would exceed \$7.50 on the \$1,000.

Private high schools may educate State students and receive \$2 monthly from the school fund for each one's tuition.

School year commences January 1. The school month is 20 days of not less than 6 nor more than 8 hours each.

The county assessor takes census of school children.

The pay of teachers is regulated by statute and based upon the average attendance. In schools of first grade, where the average attendance is 25, the pay is 8 cents per scholar; in the second grade, 6 cents, and in the third grade, 5 cents. If the average attendance is over 12 and less than 25, the pay is the same for number actually attending, and one-third of above rates for the difference between number actually attending and 25. But the total amount paid out of school fund shall not exceed $7\frac{1}{2}$ cents for principal and assistants.

The above rates may be increased one-tenth or diminished one-tenth in cities and towns constituting separate school districts.

The State school fund not to be less than \$200,000 each year. The county tax not to exceed 3 mills.

In the city of Columbus the mayor and aldermen are made school trustees, and, with the county superintendent, constitute the city board and control city schools.

Text books, not to be changed for 5 years, are to be selected by the teachers of county, in convention.

MISSOURI.

Constitution, Article XI: "A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the general assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this State between the ages of 6 and 20 years."

If the public school fund provided and set apart for the support of free public schools should be insufficient to sustain schools at least four months in each district, the general assembly are to provide for the deficiency. In no case shall there be set apart less than 25 per cent. of

the State revenue, exclusive of the interest and sinking fund, to be applied annually to the support of schools.

It further provides for a State superintendent and a State board, consisting of the governor, secretary of state, attorney general, and State superintendent, the latter to be president of board.

Code of 1874.

The State superintendent is elected for four years and charged with usual duties.

The county commissioner is elected for two years.

The county courts have management and care of township and county school funds, and annually apportion moneys to districts according to enumeration of children of school age.

Subdistricts, as now organized and bounded, are continued as school districts.

The control is vested in 3 directors chosen by the qualified voters for terms of 3 years, one elected each year, who are to meet and organize within five days after election. They have the general powers of district boards, and are to take annual enumeration of children between 5 and 21.

Teachers are to hold certificates from State superintendent or county commissioner, and are required to attend institutes.

Cities, towns, and villages may be organized into school districts, under control of six directors. After first election, one-third to be elected each year, to constitute the board of education.

Central schools may be established, to be under control of a board consisting of the presidents of district boards. Two or more districts by majority vote may unite for this purpose and form a central school district.

The presidents of boards of cities, towns, and villages, and directors of districts, to meet in convention every five years and adopt text books.

The annual rate of tax in districts for school purposes not to exceed 40 cents on \$100, but may be increased by a majority vote to 65 cents, and in districts formed of cities and towns to \$1. The school year commences on the first Tuesday of April. School month, 4 weeks of 5 days; school day, 6 hours. The income of State, county, and town funds to be used for teachers' wages.

Where the number of colored children in any district exceeds 15, schools are to be established for them. The tax for the maintenance of any colored school shall be levied and collected from the taxable property of the township in which such school is located. Two or more districts may be united to maintain a colored school where each has less than minimum number. The State superintendent is to provide for the same if the local board neglect.

NEBRASKA.

Article VIII of the constitution requires the legislature to provide for the free instruction in the common schools of all persons between

the ages of 5 and 21, the school fund to be equally distributed among the districts. The government of the State university is vested in six regents, to be elected by people for 6 years; a State superintendent of public schools, to be elected for 2 years, is provided for.

It also authorizes the legislature to provide for a school or schools for the safe keeping, education, employment, and reformation of all children under 16 who, from want of parental care or other cause, are growing up in mendicancy or crime.

School laws, 1879.

The State superintendent is charged with usual duties.

The county superintendent is elected for 2 years, and has general supervision of schools in his county and examination of teachers.

The counties are divided into school districts. Districts that shall have exercised privileges and franchises for one year are to be deemed legally organized.

Districts are to hold annual meetings in April of each year, and elect at the first meeting a moderator, for 3 years; director, for 2 years; and treasurer, for 1 year; and thereafter one each year, to serve 3 years, who are to constitute district board.

Every male citizen and unmarried woman of 21 years of age residing and owning property in district subject to tax for school purposes may vote in district meetings.

Districts of more than 150 children of school age (5 to 21) may elect a district board of 6 trustees, if so determined by a majority vote, at annual meeting, one-third to retire each year.

The district provides houses and grounds, regulates length of schools, and raises taxes therefor; but to entitle district to any part of State fund the schools must be kept up 3 months in districts of less than 75 scholars, 6 months in those of from 75 to 200, and 9 months when over 200.

The State tax is 2 mills, and is apportioned to counties by State superintendent according to enumeration.

The county superintendent apportions to districts, one-fourth divided equally and three-fourths pro rata, according to enumeration.

Text books are selected by State superintendent.

NEVADA.

The constitution, Article XI, § 2, requires the legislature to provide "for a uniform system of public schools, by which a school shall be established and maintained in each school district at least six months in every year," and also for a State tax to aid in sustaining them.

Laws of 1877.

The governor, State superintendent, and surveyor general constitute the State board. The State superintendent is elected for four years and

a county superintendent in each county for two years, all with the usual powers and duties.

The State superintendent is to apportion interest on school fund to counties in proportion to children between 6 and 18; the county superintendent apportions to districts, 25 per cent. according to the number of teachers and the balance pro rata according to number of census children listed and reported each year. The county board of examiners consists of county superintendent and two persons appointed by him.

Qualified teachers are such as have certificates from State or county board. Text books are determined by State board.

County school tax not less than 15 nor more than 50 cents on each \$100. One-half mill State tax and 5 per cent. of all State taxes to be set apart semiannually.

Each village, town, or incorporated city constitutes but one district. At the general county election the voters of each district are to elect trustees, to consist of 3 when the votes cast at the last election did not exceed 1,500, one for 4 years and two for 2 years, and of 5 where voters exceeded 1,500, two for 4 and three for 2 years, and thereafter their successors, with usual powers of district boards.

If the State money is not sufficient to keep up six months' school, they must levy tax for deficiency.

Rate bills on parents of scholars are authorized for schools in excess of six months.

The school year commences September 1. The school month is 4 weeks of 5 days each.

Districts failing to keep up school for 3 months under qualified teachers to forfeit proportion of semiannual apportionment.

The trustees are to furnish teachers with a list of all children in the district, and the teacher to report monthly those attending. If at end of four months non-attendance is shown, the trustees are to demand the penalty of parents, &c., which is not less than \$50 nor more than \$100 for the first offence, and not less than \$100 nor more than \$200 for second and subsequent offences. Sixteen weeks' school required for all children between 8 and 14.

Both State and county teachers' institutes are provided for, the former annual, the latter one or more each year.

NEW HAMPSHIRE.

The constitution contains the usual provisions of those of the New England States.

The law provides for a State superintendent appointed by the governor and council for two years, who has general supervision and control of educational interests of the State.

The towns at annual meetings are to choose a superintending school committee to supervise schools of town, raise money for schools—

less than \$350 for each \$1 of the State apportionment—to be assigned to districts according to valuation or in such other mode as town may determine.

Towns may divide into districts or they may abolish districts. Districts composed of the whole town must elect and any other district in any town in which there are 50 children may elect a board of education of 3, 6, or 9, one-third to retire each year. High school districts may be established by a two-thirds vote of the town or of any district of 100 scholars, and two or more districts may, by concurrent votes, unite to support a high school or other schools.

When town is divided into districts each district is to elect a prudential committee, who is the executive officer of the district and employs teachers holding certificates of town committee.

The districts have the usual powers under the district systems. Women are voters and eligible to school offices.

Town committee determine text books, are to visit schools at least twice each term, and are to report to the town at its annual meeting, and also to the State superintendent.

NEW JERSEY.

The constitution requires the legislature to provide for the maintenance of a thorough and efficient system of free public schools for the instruction of all children in the State between the ages of 5 and 18.

School laws, 1879.

The general supervision and control of public instruction is vested in a State board of education, consisting of the trustees of the State school fund and of the State normal school. The trustees of the school fund are the governor, president of the senate, speaker of the house, attorney general, secretary of state, and controller. The trustees of the normal school are two from each congressional district, appointed by the governor, with consent of the senate, one in each district appointed each year for the term of two years.

The State superintendent is appointed by the State board for a term of two years. He is to carry out the instructions of the board; is ex officio a member of the normal school board, and with principal of normal school constitutes State board of examiners.

County superintendents are appointed by State board, subject to approval of chosen freeholders, and hold during pleasure of board.

Each school district elects 3 trustees, to serve 3 years, one to be elected each year, with usual powers of district boards. Females are eligible.

The district trustees constitute the township association; the county and city superintendents form a State association, of which the State superintendent is president.

The county superintendent and 3 teachers appointed by him are a county board of examiners. In cities governed by special law, the city board appoint examiners and a city superintendent.

The county superintendent is to fix boundaries of districts, and may divide or unite the same, but no new district is to be formed unless it contains 75 children of school age. Each incorporated city or town forms one district.

Any two or more districts may unite to establish graded schools, to be governed by joint board and entitled to share of school fund.

Every district to provide its own school-houses, and forfeits right to any share of school appropriation unless nine months' school is maintained.

The State school tax is two mills; \$100,000 from income of school fund to be paid to the counties in two or more instalments; \$100 for each county, for teachers' institutes. If the State fund is insufficient for a nine months' school, a township tax may be levied.

The legal voters of district may levy a tax. All moneys received by district, other than district tax, over \$20, to be used for teachers' salaries.

Tuition free to all residents of district between 5 and 18, and all from 8 to 14 years of age are required to attend school at least 12 weeks each year. Corporal punishment in schools is prohibited.

Districts raising \$20 for a library are entitled to same amount from the State.

An act of March 14, 1879, provides that districts theretofore receiving \$350 shall thereafter receive but \$300 from State apportionment.

Every county is entitled to send to State normal school, free of charge for tuition, 3 pupils for each representative elected.

Applicants for admission to State agricultural college are to be selected by the county superintendent on examination.

NEW YORK.

By the constitution, the capital of the common school fund, of the literature fund, and of United States deposit fund is to be preserved inviolate; \$25,000 of the revenues of the deposit fund are to be annually added to capital of common school fund; the revenues of the literature fund are to be applied to support of academies; the revenues of common school fund, to support of common schools.

School laws, 1878.

A State superintendent is elected by joint ballot of senate and house for three years. He is ex officio trustee of Cornell University, a regent of the State university, general supervisor of State normal schools, and trustee of State Asylum for Idiots; provides for education of Indian children, and visits institutions for deaf and dumb and blind, with usual powers and duties in reference to common schools, and may appoint a deputy.

The State is divided into districts, having no special reference to county or township lines, in each of which is to be elected triennially a school commissioner, with the ordinary powers and duties of a county commissioner in his district, and is to define the boundaries of school

districts in his jurisdiction, divide territories into districts when necessary, and, with consent of trustees, may alter the same.

School districts are at annual meetings to elect one or three trustees, clerk, tax collector, and librarian. Where there are three trustees, one is to be elected each year. District officers must be qualified voters.

Every resident male of 21 years of age who owns or hires real property liable to school tax; every resident authorized to vote at town meetings, having a child of school age who has attended eight weeks the preceding year; owner of personal property exceeding \$50 in value, exclusive of such as is exempt from execution, liable to school tax, and no others, are qualified voters in district meetings.

The district, by vote, may designate sites, levy tax to build, purchase, or repair houses, and to raise money for district purposes, not to exceed \$25, for purchase of maps, apparatus, &c., and not to exceed same amount for anticipated deficiency in contingencies, and the taxable inhabitants may vote annual tax of \$50 for library.

The trustees have usual powers of district board, and are to report number of children in district between 5 and 21.

The common schools are to be free to all over 5 and under 21 resident in district; and children between 8 and 14 years old are required to be sent to some school at least 14 weeks in each year, but no Indian children may be admitted to the public schools in districts where a separate school is provided for them.

Teachers must hold diploma from State normal school, or certificate of State superintendent, school commissioner, or the proper school officer of city or village.

Union free schools may be formed, to be controlled by not less than 3 nor more than 9 trustees, one-third elected each year, who are to constitute board of education. Such union district to be recognized as a school district in distribution of school moneys. The board has power of trustees; may grade schools.

District school authorities may, if they deem it expedient, establish separate schools for colored children, to be supported in same manner and to same extent as other schools.

Boards of education or school districts, by two-thirds vote, to designate text books, not to be changed for five years.

An act of May 13, 1878, requires the trustees to be elected by ballot in all districts of over 300 children of school age.

NORTH CAROLINA.

The constitution requires the legislature to "provide by taxation or otherwise for a general and uniform system of public schools, wherein tuition shall be free of charge to all children between 6 and 21 years of age." White and colored are to be in separate schools, but no discrimination to be made in favor or to the prejudice of either race.

It also provides for a State superintendent and a State board of edu-

cation, to consist of the governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, and State superintendent.

It provides that each county shall be divided into school districts, and that a school shall be maintained in each district at least four months each year, and makes any county commissioner failing to comply with this requirement liable to indictment. It provides for an irreducible educational fund, makes the University of North Carolina a State institution, and directs that its benefits shall, as far as practicable, be extended to the youth of the State free of charge for tuition. It gives the State board full power to legislate and make all needful rules in relation to the free public schools and the educational fund of the State, subject to amendment or repeal by the legislature, and empowers the legislature to enact that every child of sufficient mental and physical ability shall attend the public schools during the period between 6 and 18 not less than 16 months, unless educated by other means.

Laws in force, 1877.

The county commissioners of each county constitute the county board of education. They are to appoint one resident examiner to examine teachers; lay off county into districts; employ teachers; if money insufficient for 4 months' school, may levy tax for deficiency; and appoint school committee of three for each district.

Every school to which aid shall be given from State shall be deemed a public school, to which children between 6 and 21 only shall be admitted. Moneys are to be apportioned to the districts according to the number of children between 6 and 21. Teachers are to hold certificates, which are of three grades. Teachers of the first grade are not to be paid over \$2 a day; teachers of the second grade, not to exceed \$1.50; and of the third grade, not to exceed \$1. No teacher to be paid for less than one month of twenty days.

Course of study and text books are prescribed by the State board. School committees take an annual school census of their districts.

Laws of 1876-'77 provide for normal instruction of both white and colored teachers, and authorize townships having within their limits cities of 5,000 or more inhabitants to levy taxes for the support of graded public schools.

OHIO.

The constitution contains the usual requirement that a thorough and efficient system of common schools shall be provided for by taxation or otherwise.

The law is taken from the last compilation of the State commissioner, 1879. The State commissioner is elected triennially, and is to appoint a State board of examiners.

A county board of examiners of three is appointed in each county by

the probate judge, who hold for two years; city boards of examiners, by the city boards of education.

School districts are classified as city districts of first class, city districts of second class, village districts, and township districts.

Cities of 10,000 or more inhabitants are of first class, and under control of a board of education of one or two from each ward, elected by voters. Cities of less than 10,000 are of second class, and with incorporated villages are controlled by a board of three or six, elected by voters.

Each township constitutes one district and is under control of a board consisting of the township clerk and the clerks of the subdistrict boards. The township clerk is clerk of board, but without vote.

Townships are divided into subdistricts. The qualified voters of each subdistrict elect a board of three directors; one elected each year, to serve three years. The directors elect one of their number clerk, and manage the district affairs under direction of township board, employ qualified teachers, and take census of children between 5 and 21.

The township board control central or high schools when established; may grade subdistrict schools, assign scholars to primary schools, and regulate admission to graded schools. They may appoint an acting manager and establish one or more separate schools in each district for colored children when the number exceeds 20, but if the number is too small for a separate school they may be admitted to other schools. They may exclude children under six in cities or towns of 1,000 or more inhabitants.

Township and city boards prescribe the studies to be pursued and the text books to be used.

The State school fund is to be used for payment of teachers, but no teacher is entitled to pay until reports are made; no township is entitled to apportionment unless at least 24 weeks' school has been kept up, and no district unless an enumeration of its youth has been taken and returned.

Cities of less than 40,000 may levy a school tax of 4 mills; of 40,000 and less than 100,000, 3 mills; of 100,000 or more, 2 mills; and are to maintain schools not less than 24 nor more than 44 weeks each year.

The school month is 4 weeks of 5 days each. Upon demand of 75 voters, German is to be taught. The schools are to be free to all children resident in district between 6 and 21 years of age, and persons having children between 8 and 14 years of age are required to send them to a common school at least 12 weeks in each year, unless otherwise instructed or excused by the school board. Without such schooling no child under 14 may be employed for labor during school hours.

City and county teachers' institutes are provided for, and during the session of the former all teachers of common schools within the county may dismiss their schools to attend the institute. City boards may also allow their teachers to attend.

OREGON.

The constitution requires the establishment of "a regular and uniform system of common schools," and that the income of the school fund shall be distributed to the districts according to the number of children therein between the ages of 4 and 20 years, to be applied to the support of the common schools and the purchase of suitable libraries and apparatus.

School laws, 1878.

The State superintendent is elected by the people for four years, with usual powers and duties.

The governor, secretary of state, and State superintendent constitute the State board, who are to prescribe rules for the general government of schools, to secure regularity of attendance, prevent truancy, and promote the interests of the schools, to sit as State board of examiners and grant State diplomas and certificates.

A county superintendent is elected by people for two years, who has supervision of schools in county; is to lay off county into districts and change or alter same and examine teachers.

Organized districts are to hold their annual meeting in March and choose a clerk and three directors, one director to be elected each year for 3 years.

The directors are to provide school-houses, take care of and furnish the same, when instructed by major vote of district; employ teachers, and maintain high school six months in districts where the number of school children is 1,000 or more.

Any citizen who has resided in the district 30 days next preceding the meeting may vote. Widows having children of school age and taxable property may also vote.

The directors are to be free to all persons resident in district between 6 and 21. A school quarter is 12 weeks or 60 days, and no district may receive its portion of the school fund unless it reports, by the first Monday of March, that it has had a school of that duration.

Text books determined by State board on vote of majority of county superintendents.

Institutions for deaf and dumb and blind are provided for under control of State board.

Enumeration of children between 4 and 21 taken by district clerk.

PENNSYLVANIA.

The constitution requires "the support and maintenance of a thorough and efficient system of common schools, wherein all the children of this Commonwealth above the age of six years may be educated," and an appropriation of at least one million dollars each year for that purpose. Women 21 years of age and upwards are eligible to office under the school laws. Appropriations to sectarian schools are forbidden.

Laws as compiled by State superintendent.

The State superintendent is appointed by the governor for term of four years, with usual powers and duties.

County superintendents are elected triennially by viva voce vote in convention of district directors.

Cities and boroughs of over 7,000 inhabitants may have their own superintendent, to be elected for 3 years by school directors of same.

Every township, borough, or city constitutes a school district. In every city or borough which consists of more than one ward, each ward is a school district. Independent districts may be formed and abolished by the court of quarter sessions.

School districts are bodies corporate, and may purchase and hold real and personal estate necessary for the support and establishment of schools, and sell and dispose of the same when not needed for such purpose.

Each district is to elect six directors, one-third to be elected each year for three years. The directors are to organize and choose a clerk¹ and treasurer.

The board exercise general supervision over the schools; appoint all teachers and fix their compensation. They shall establish a sufficient number of schools for the education of all persons between 6 and 21 in their districts who may apply for admission. The number, location, size, and arrangement of school-houses are in their discretion. They shall direct what branches are to be taught and the books to be used—books not to be changed oftener than once in five years.

They may grade schools and prescribe qualifications of admission thereto; establish separate schools for colored children whenever they can be located so as to accommodate 20 or more scholars.²

The school month is 22 days. Less than 110 days of school will not entitle a district to share of State moneys.

The directors determine the amount of school tax to be levied, which, with amount received from State appropriation and from other sources, must be sufficient to maintain schools for not less than 5 nor more than 10 months each year.

State moneys are apportioned according to the number of taxables in each district.

In cities or boroughs divided into wards the ward directors exercise the powers and duties of school directors as regards the erection and repair of houses and providing lots, and the levy of taxes therefor. All other duties are to be performed by a board of controllers, consisting of the directors of each ward. Whenever the directors of each district shall convey to such board of controllers all district property, the city

¹In practice, the clerk is the acting superintendent of the schools of the district.

²The law seems to require the establishment of separate schools where 20 or more scholars can be accommodated. Where this number cannot be collected into one school there is no law which excludes them from the other public schools.

or borough shall thereafter constitute but one district, the number of directors from each ward not to exceed 3.

RHODE ISLAND.

The constitution declares that, "the diffusion of knowledge, as well as of virtue, among the people being essential to the preservation of their rights and liberties, it shall be the duty of the general assembly to promote public schools, and to adopt all means which they may deem necessary and proper to secure to the people the advantages and opportunities of education."

School laws, 1874.

The State board of education consists of the governor, lieutenant governor, and one member from each county except Providence, which has two, to be elected by the general assembly, two each year.

The board elect annually a State commissioner, who is charged with the usual duties and under direction of State board is to secure uniformity in text books.

Any town may establish and maintain schools with or without forming school districts, and may provide suitable houses in all the districts, but districts which have provided suitable houses are not to be again taxed for such purpose.

Each town is to elect a school committee of not less than 3, one-third to be elected each year for term of three years,¹ and may elect a superintendent of schools; failing to do so, its school committee must appoint one. Districts elect a moderator, clerk, treasurer, collector, and one or three trustees. Joint school districts with 2 trustees are provided for. Voters in town may vote in district of residence; none but taxpayers may vote on question of tax or expenditure of money raised thereby. The powers of districts when formed, or of the towns when not divided, are the usual powers under the New England system. The voters of the district, whether it be a part only or the whole town, control the school affairs. The district trustees are the executive officers of the district, while the town committee have general supervision of schools and, where town is not divided, powers of trustees.

No person can be excluded from any public school in the district of residence on account of race or color, or on account of being over 15 years of age, or otherwise, except by some general regulation applicable to all. Every school aided by the State is to be visited by the town committee, State board, or State commissioner.

If any districts neglect to organize, or for seven months neglect to employ teachers and establish schools, the town committees are to act for them.

Schools in the city of Providence are governed by ordinances of city authorities.

¹ Women are eligible to school committees.

Of the income of the State school fund \$90,000 are to be apportioned annually, \$63,000 according to the number of children under 15 and \$27,000 according to number of districts. This State money goes to teachers only. No town is entitled to any share unless it shall raise an equal amount by tax. When the schools are maintained by organized districts, the town's proportion of the \$63,000 is to be divided among the districts, one-half equally and one-half in proportion to average attendance, and its share of the \$27,000 equally among the districts.

State assistance towards the formation of town libraries as means of education is authorized by a law of 1875.

SOUTH CAROLINA.

The constitution provides for a State superintendent to be elected as other State officers, also for the election of a commissioner for each county biennially, said commissioners to constitute the State board of education, with the State superintendent as chairman. It also requires the legislature to provide for a liberal and uniform system of free public schools, to provide for the compulsory attendance at some public or private school of all children between 6 and 16, not physically or mentally disabled, for a term equivalent, at least, to 24 months, to levy a tax for support of schools on all taxable property and a per capita tax of \$1 on every male over 21. It also provides for the establishment of a State normal school, the education of the deaf and dumb and blind, a State reform school for juvenile offenders, for the organization of an agricultural college in connection with the State university, and, further, that all universities, colleges, or public schools supported, in whole or in part, by the State shall be free and open to all the children and youth of the State without regard to race or color.

School laws, 1878.

The State board is an advisory body to State superintendent, and hears appeals from county boards. The State superintendent and four persons appointed by governor constitute State board of examiners.

The board of examiners prescribe and enforce course of study in public schools and uniform series of text books, not to be changed for five years without permission of the general assembly.

The county commissioner and two persons appointed by State board constitute county board of examiners.

The county board lay off county into convenient school districts and appoint for each school district a board of 3 trustees to serve 2 years, who are to provide houses, employ qualified teachers, and have care of district affairs.

The school year begins November 1. The county board are to limit school terms according to fund. All contracts in excess of funds apportioned are void.

The school commissioner of the county of Charleston is to organize and have charge of schools outside of the city.

For the city of Charleston there is a city board, consisting of one from each ward, who are to elect a chairman, clerk, and superintendent, and have charge and control of the city schools.

The State school tax is one mill and the poll tax of \$1.

TENNESSEE.

The constitution of 1870 declares it to be "the duty of the general assembly in all future periods of this government to cherish literature and science." It provides for a perpetual school fund, the interest of which is to be applied "to the support and encouragement of common schools throughout the State, and for the equal benefit of all the people thereof;" no part of said fund to be diverted to any other purpose. It further provides that "no school established or aided under this section shall allow white and negro children to be received as scholars together in the same school."

School laws of 1873, as amended to 1879.

The State superintendent is appointed by the governor and senate for a term of two years, and charged with the usual duties.¹

A county superintendent is appointed by the county court biennially, with general supervision of county schools. One of his duties is "to suggest to district directors such changes as may be necessary to secure uniformity in the course of study, when it can be done without expense to parents."

Districts to be constituted as now or as they may hereafter be established.

On the first Thursday in August the qualified voters of each district are to elect a board of three directors for the term of three years, one to be elected each year. If the district fails to elect, the county superintendent to appoint. Directors are to be residents of the district; teachers not eligible. The directors have charge and control of schools in district under supervision of county superintendent.

The schools are to be free to all persons between 6 and 21 resident in the district; white and colored to be separate.

The branches to be taught are orthography, reading, writing, arithmetic, grammar, geography, elementary geology of Tennessee, history of the United States, vocal music, and elementary principles of agriculture. No other branches to be introduced except by local taxation or payment of tuition.

Where the number of scholars is sufficient, preference is to be given to graded schools. The consolidation of public schools with private

¹A State board of education for the establishment and care of normal schools was created in 1875, and succeeded in establishing a good normal college at Nashville, but the legislature has failed to render it any pecuniary aid.

schools is authorized, provided the required public school branches be taught in the latter and the authority of the State school officers over those studying these branches shall be as full as in the ordinary public schools.

The State school fund amounts to \$2,512,500, on which the State is to pay interest at 6 per cent. semiannually; also, a poll tax of \$1 to be paid to county in which it is collected, and a State tax of 1 mill—each county to have the amount collected in it.

When the money derived from State fund and taxes is not sufficient to keep up a public school for five months, the county trustees are to levy additional county tax.

The moneys apportioned according to scholastic population; school census to be taken by district clerk.

Under the present law the districts have no power to levy taxes for the purchase of real estate and school furniture, for building houses, prolonging the schools, or for any school purpose. The directors have no revenues except the State moneys and county taxes.

The county superintendent is the auditor of all school accounts, and all warrants must be approved by him; and the county trustee must pay directly to the party entitled, and not to clerk of district.

TEXAS.

The constitution of 1875 makes it "the duty of the legislature to establish and make suitable provision for the support and maintenance of an efficient system of public free schools." It provides for a permanent school fund; requires that there shall be set apart annually not more than one-fourth of the general revenue of the State and a poll tax of \$1 on each male 21 years of age and under 60 for the benefit of free schools, these taxes and the interest on the permanent fund to be the available school fund to be distributed to the counties according to the scholastic population.¹ Separate schools are to be provided for white and colored children, but impartial provision is to be made for both.

School laws, 1879.

The governor, secretary of state, and comptroller constitute a State board, who have charge of and invest State school fund.

The board appoint a secretary, whose duty it is to keep a record of the proceedings, file and index reports, advise and counsel with school officers of counties, cities, and towns, issue regulations and instructions binding on officers and teachers. He seems to take the place of the State superintendent, who under the former law was elected by the people for four years.

The former law provided for a county board of five directors, elected

¹ The census of this population is required to be taken annually by the tax assessor of each county.

by the people for four years. For these the present law substitutes a board of examiners, appointed by the county judge, who also distributes blanks, receives and passes upon petitions for the organization of school communities, appoints trustees therefor, distributes available school fund, receives and passes upon all applications for the erection of school-houses, approves warrants and contracts with teachers, and licenses as teachers persons who have been passed by the board of examiners appointed by him. Under the former law the trustees were elected by qualified voters of district.

Parents and guardians may now unite and organize as a school community upon petition to county judge, approved by county board. In towns not exceeding 1,500 inhabitants but two school communities can be organized for whites and two for colored. The trustees are to contract with teachers if a school-house has been provided. When there is no school-house, the available fund may be used for erecting house, provided the members of the community contribute an equal amount in labor and means and land is donated.

All children of the scholastic age are entitled to tuition free in orthography, reading, writing, English grammar, composition, geography, and arithmetic. The school age under the old law was 6 to 16 years; under the present law it is 8 to 14.

Children not of scholastic age may attend the community school upon payment of tuition, as agreed upon between parents and teachers; but the trustees are not to permit any contract which interferes with the interests of State pupils.

Trustees are to contract with teachers on the basis of the number of children of scholastic age registered. No teacher is entitled to full pay unless the average daily attendance amounts to 75 per cent. of the whole number registered on the community list. If the average attendance is 50 and less than 75 per cent., the teacher may receive 75 per cent. of contract compensation. If the attendance is less than 50 per cent., the teacher may be paid for the actual daily attendance, or trustees may discontinue the school. Teachers of the first grade are not to receive over \$2 a month per capita; of the second grade, not to exceed \$1.50, and of third grade not to exceed \$1—in no case to exceed \$60 a month for first grade, \$40 for second grade, and \$25 for third grade.

The former law required the trustees to provide houses and schools for the scholastic population of their districts, employ competent teachers, and to see that the schools were taught and properly conducted for at least four months in the year; and if the income derived from the public fund apportioned to any district was insufficient for this purpose, the board of directors were required to levy an ad valorem tax upon all taxable property in the district sufficient to supply the deficiency.

The former law also provided that all the scholastic population of the State should be required to attend the public free schools at least four months in each year, unless prevented by ill health, feeble physical con-

stitution, or by reason of danger from hostile Indians or prevalence of contagious or infectious disease. No indication of such requirement appears in the new law.

VERMONT.

The constitution declares that "laws for the encouragement of virtue and the prevention of vice ought to be constantly kept in force and duly executed. And a competent number of schools ought to be maintained in each town for the convenient instruction of youth, and one or more grammar schools be incorporated and properly supported in each county in the State."

School laws of 1874, as subsequently amended.

A superintendent of education is elected biennially by the legislature for the State. Each town also elects a superintendent of common schools, and these superintendents in each county are to meet annually at the county seat, prepare a series of questions for the examination of teachers, fix a standard of qualifications, and choose by ballot one of their number and two practical teachers of the county to constitute an examining board to determine upon a series of text books.

Each organized town is to maintain and support one or more schools under competent teachers, and may establish central or high schools for advanced pupils and elect prudential committee therefor; each pupil from other towns to be charged tuition fee, to be fixed by such committee.

The towns are the primary authority, but may form school districts.

When districts are formed they are to elect officers, among which is a prudential committee of one or three; all officers must be legal voters. Voters in town meetings may vote in district of residence.

The powers of the town superintendent and district and prudential committee are the same as in the other New England States.

If the district neglects to comply with the requirements of the laws, the selectmen of the town are to appoint new officers, who are to open and keep up schools at expense of district, and assess tax therefor. A town tax of nine cents on each \$1 of the list is to be levied, including one-half the interest on the United States deposit fund. Towns may raise such additional sum as they please. No district entitled to share unless schools are taught two terms of 10 weeks each. School week, 5 days; school month, 4 weeks. Towns may abolish districts and assume control of schools.

VIRGINIA.

The constitution provides for the election by the general assembly of a State superintendent for a term of four years; for a board of education, to consist of the governor, attorney general, and State superintendent; for county superintendents, to be appointed by the State

board, subject to confirmation by the senate, and for division of townships into school districts of not less than 100 inhabitants, and in each district a board of three trustees, with terms so arranged that one shall be elected each year.

It also requires the general assembly to establish a uniform system of free public schools, to be introduced into all the counties of the State; authorizes laws to prevent parents and guardians from allowing their children to grow up in idleness and vagrancy; the establishment of normal and agricultural schools and such grades of schools as may be for the public good. It requires the State board to provide for uniformity of text books and the furnishing of school-houses with the necessary apparatus and a library; makes provision for a State literary fund, the interest of which, with the capitation tax and an annual tax of from 1 to 5 mills, is to be for the equal benefit of all the people of the State, to be divided according to the number of children between 5 and 21.

It requires provision to be made for the supply of text books to pupils whose parents are unable to supply them and authorizes each district to raise additional sums by tax for support of public schools, not to exceed 5 mills in any one year, the general assembly to fix salaries of school officers and make all needful laws to carry these provisions into effect.

School laws, 1878.

The State board is authorized to make by-laws and regulations for carrying into effect the school laws, decide upon appeals from decisions of State superintendent, regulate all matters arising under school system not otherwise provided for, invest school fund, and audit all claims paid out of State fund.

The State superintendent is to determine true intent and meaning of the school laws, see that laws and regulations are faithfully executed, and has general charge and supervision of system.

County superintendents are charged with the usual duties. There is also provision for a county school board composed of the county superintendent and district trustees, to care for county school property. District trustees are to be appointed by joint action of the county superintendent, county judge, and attorney. They are to be residents of the district, elect a president and clerk of their own number, and have charge of district affairs. They are to provide suitable school-houses and appurtenances according to exigencies of the district and means at their disposal, no house to be erected unless with approval of county superintendent. Incorporated towns of 500 to 5,000 inhabitants may constitute school districts, and through their councils appoint boards of school trustees.

No district is entitled to share of school fund until houses are provided, nor unless five months' school has been maintained the current year.

The public schools are to be free to all residents of the district between 5 and 21. White and colored are to be separate, but under the same general regulations as to management, usefulness, and efficiency.

Schools must have an average attendance of not less than 20, to be wholly supported by the State, but the trustees, with consent of county superintendent, may legalize a school where the average attendance is not less than 15. An average of attendance of not less than 10 may be allowed where two-thirds of support is from other than State funds.

The branches taught are limited to orthography, reading, writing, arithmetic, grammar, and geography, unless by special regulation of State board. Preference to be given to graded schools where number is sufficient.

Any district board may admit into any one of the public schools instruction to qualify pupils to become teachers or to enter colleges or the higher institutions of learning, and require therefor a tuition fee not exceeding \$2.50 a month.

County and district taxes are not to exceed 10 cents on \$100, except in Alexandria County, where 50 cents may be levied by a three-fourths vote.

The number of schools is to be according to the available funds to be distributed by the State board in proportion to number of children between 5 and 21.

Cities of 10,000 or more inhabitants are of the first class; cities of less than 10,000 are of the second class.

Every city is a district, or, if divided into wards, each ward is a district. All the trustees constitute the city board.

The State board to appoint a superintendent for cities of the first class. The city boards are to prescribe the number and size of districts until divided.

The city school tax is not to exceed 3 mills.

WEST VIRGINIA.

Article VII of the constitution provides for a State superintendent, to be elected for four years, for a poll tax of \$1, and State tax not to exceed 95 cents on \$100. Article XII, for a thorough and efficient system of free schools, to be under supervision of State superintendent; authorizes legislature to provide for county superintendents and other officers; provides for State school fund, and makes governor, State superintendent-auditor, and treasurer the board of school fund; directs present school districts to remain until changed by law; requires legislature to appropriate for support of free schools the interest of school fund, net proceeds of all fines and forfeitures and of taxes provided for by constitution, and to provide that the people in each county and district shall raise such proportion as shall be prescribed by law; white and colored schools to be separate; and that no independent school district shall be formed without the consent of the district or districts out of which it shall be formed.

School laws, 1877.

The term district is defined to mean that division of territory which under the old constitution was known as a township, and is to be presided over by a board of education; independent district, a division of territory designated by special act of legislature; a subdistrict is a subdivision of a district, presided over by a trustee.

The county superintendent is to be elected biennially at the general election. At the same time the voters of each district are to elect a president and two commissioners, who are to constitute the district board, and also by vote determine question of tax or no tax.

The district board are to appoint 3 trustees for each subdistrict, one to be appointed each year for 3 years.

The district board are to determine number and salary of teachers, to appoint a secretary not a member of board, and shall cause to be kept up a sufficient number of schools for all persons entitled to attend; i. e., all youth between 6 and 21.

The trustees are under supervision and control of board. Trustees appoint teachers to be approved by board, and may remove same, subject to appeal to board. One or more schools to be established in every subdistrict for colored children when the number exceeds 25. The trustees of two or more districts may unite to establish colored schools. Whenever the benefit of free schools is not secured as aforesaid to colored children, the fund is to be divided in proportion to white and colored and their proportion expended by district board for the benefit of the colored children.

The school year commences September 1; school month is 22 days—20 days school and 2 days institute. The district board may establish graded and high schools, but must first submit question to voters of district.

The county superintendent and 2 teachers constitute a board of examiners to examine teachers; an examination fee of \$1 is charged and applied to payment of two examiners. Teachers required to have certificate of county examiners, diploma of State normal school, or certificate from State board. Each teacher required to attend institute 2 days each month.

The president of board to examine school-houses once each year and report condition to board. Plans for new houses to be approved by county superintendent. District board may levy tax not exceeding 40 cents on \$100 in any one year for building fund; also, to levy such tax as with State funds will keep up schools for 4 months each year, but not to exceed 50 cents on \$100. Voters may authorize school for more than 4 months, and board levy tax therefor. Text books for the State schools are prescribed by statute, and county superintendents are to see that these are used and no others introduced. The State school tax is 10 cents on each \$100, to be added to the interest on the State school fund

and other sources of revenue and applied to the support of free schools, and to no other purpose whatever.

WISCONSIN.

Article X of the constitution provides for a State school fund; requires the legislature to provide for a system of district schools, as nearly uniform as practicable, to be free to all children between 4 and 21; that each town and city shall raise for public school purposes an amount equal to one-half of amount received from State, and vests supervision of public instruction in a State superintendent and such other officers as the legislature may direct.

Law of 1878.

The State superintendent is elected by the people biennially, and county superintendents in same manner.

The district system is in force in this State. A town, if it so votes, may be one district, and the districts in it subdistricts, or it may be divided into districts. In the one case the town, and in the other the district, controls the schools.

Each district elects a director, treasurer, and clerk for three years, one to be elected each year.

The district may levy tax for teachers' wages of \$350 for 15 scholars or less, \$450 when over 15 and less than 30, and \$500 when from 30 to 40; for maps, &c., \$75; and for library, \$100.

The director, treasurer, and clerk constitute district board, and must act as a board. May levy tax, if district neglect; determine text books, not to be changed for three years; employ teachers; and exercise general powers of district boards.

Any town may by vote establish high schools, the officers to be the same as in a district and to constitute a high school board.

When town system is adopted the subdistricts are to choose a clerk, and the clerks constitute the town board. The town board are to choose a president, vice president, and secretary, who are to be the executive committee, the secretary to supervise the schools. Ample powers for the establishment, maintenance, and control of schools are given to such town boards.

ARIZONA.

School laws, 1875-1879.

The governor, superintendent of public instruction, and treasurer constitute the territorial board of education, the governor being president and the superintendent secretary. The probate judge of each county is ex officio county superintendent.

A board of examiners is appointed by the territorial superintendent for each county, the county superintendent to be chairman of the board.

Counties are divided into districts. The county superintendent may form new districts upon petition.

The territorial superintendent is to apportion school money to the counties under the supervision of the territorial board, according to the average attendance for the three months prior to January 1 of each year, and the county superintendent to the districts in same manner.

At each general election the voters of the district are to elect three trustees, who elect a clerk and treasurer of their own number and control district affairs.

Schools are to be kept open three months each year. The school month is four weeks of five days each.

Text books are prescribed by board of education. The territorial tax is 15 cents on \$100 and the county tax not less than 50 nor more than 80 cents.

A census of children between 6 and 21 is taken annually by census marshal appointed by trustees.

DAKOTA.

Laws of 1877.

A territorial superintendent is appointed for two years by the governor and council.

A county superintendent is elected by people biennially.

He is to divide county into districts and apportion money to same according to number of children between 5 and 21, examine teachers, and have general supervision of schools of county.

Each district at its annual meeting elects a director, clerk, and treasurer, who are to be qualified voters and constitute the district board, one to be elected each year for three years.

The districts locate houses and have control of schools. May vote tax not to exceed 2 per cent. for building fund, 2 per cent. for teachers' fund, 1 per cent. for furnishing houses, and \$25 for library. A scholastic census is made annually by the clerk of each district. A county tax of \$1 on each elector and 3 mills on the dollar of taxable property to be levied annually for school purposes, and to be distributed to districts in the proportion of their school population.

County teachers' institutes are to be held, and an annual territorial one.

Text books may be prescribed by the territorial and county superintendents and district school officers in conjunction, not to be changed for three years.

DISTRICT OF COLUMBIA.

The school laws of the District of Columbia are found in acts of Congress and the ordinances of the cities of Washington and Georgetown prior to June 1, 1871, the acts of the legislative assembly from that date to June 20, 1874, when it was abolished, and orders of the District commissioners since that date. At that time the white schools were

under the control of three boards of trustees, one for Washington, one for Georgetown, and another for the county. The colored schools were placed by act of Congress under a special board of trustees, with almost unlimited powers.

Subsequent to July 1, 1874, the District commissioners assumed the authority to consolidate these four boards into one consisting of 19 trustees, 11 to be residents of Washington, 3 of Georgetown, and 5 of the county. This continued until the act of Congress of June 11, 1878, section 6 of which, so far as it relates to the public schools, provides—

That from and after July 1, 1878, * * * the board of school trustees shall be abolished, and all the powers and duties now exercised by them shall be transferred to the said commissioners of the District of Columbia, who shall have authority to employ such officers and agents and to adopt such provisions as may be necessary to carry into execution the powers and duties devolved upon them by this act.

This is plain and explicit, and no doubt could arise as to its meaning if it had stopped there, but this clause follows:

And the commissioners of the District of Columbia shall from time to time appoint 19 persons, actual residents of the District of Columbia, to constitute the trustees of public schools of said District, who shall serve without compensation and for such terms as the commissioners shall fix. Said trustees shall have the powers and perform the duties in relation to the care and management of the public schools which are now authorized by law.

In one breath the existing board of trustees is abolished and their powers and duties transferred to and vested in the commissioners of the District, who may employ the necessary officers and agents to carry the same into effect; and in the next it restores the board and provides that they shall have the powers and perform the duties which are now authorized by law. Does the last repeal the first, or are the trustees merely the "agents and officers" through whom the commissioners may act? Taking either clause by itself there is no difficulty of construction, while taking both together there is a manifest conflict.

As a matter of fact, the schools have continued under the system which has grown up under the action of the old boards of trustees. The order of September 9, 1874, consolidating the then existing boards, was a virtual repeal by the commissioners not only of then existing District laws but of acts of Congress; and if they are vested with this authority it may not be easy to define what laws are in force.

IDAHO.

The school laws in force in 1879 make the controller of the Territory ex officio superintendent of education and the county auditor county superintendent.¹

The county commissioners are to appoint an examiner, who, with the county superintendent, is to examine teachers.

Each county may be divided into convenient districts, and each district is authorized to elect three trustees for term of one year.

¹In two counties the probate judge is superintendent.

All actual resident taxpayers are voters in district, except married women and minors.

The county school tax is not to be less than two nor more than eight mills. All fines for breach of penal laws are applied to support of schools.

The interest on proceeds of sales of public lands is apportioned to the counties by the treasurer of the Territory in the ratio of number of children between 5 and 21.

The county superintendent apportions money to the subdistricts, one-half equally and one-half per capita. No subdistrict having less than 10 children of school age entitled to share.

Teachers must hold certificate from county examiners, and are charged a fee of \$3 therefor.

MONTANA.

School laws to 1877.

A superintendent of public instruction is to be appointed by the governor and council for two years, with power to adopt a course of study, as well as rules and regulations, for the schools.

A superintendent is elected by the people for each county biennially.

Counties are divided into school districts, and new districts may be formed by county superintendents on petition.

Each district elects a board of three trustees and a clerk. The trustees are elected, one each year, to serve three years. Vacancies are filled by county superintendent. Taxable electors are voters in the district.

The clerk is to take census of children between 4 and 21, Indians not included.

The schools are to be open for the admission of all children between 5 and 21, residents of the district. Separate schools may be provided for colored children.

The school month is 20 days, or 4 weeks of 5 days each. The school day is 6 hours, but teachers may dismiss all under 8 years after 4 hours.

County institutes are to be held annually in counties of 10 or more districts, sessions from 2 to 5 days, and teachers are required to attend. Teachers must hold certificates from the county superintendent.

The trustees may establish high schools by vote of district.

The school revenue is the interest on proceeds of sales of public lands, and of fines, a county tax of from 3 to 5 mills, and an optional district tax.

No district is entitled to share unless 3 months' school has been kept up and a duly licensed teacher has been employed.

NEW MEXICO.

No district school system appears to have been adopted in this Territory, and whatever laws are found are fragmentary and crude.

There is a provision for the election of four supervisors for each county, who are to have sole and entire control of the schools and school funds.

A poll tax of \$1 is imposed upon every male over 21, to be applied exclusively for schools, and there is a further provision that in the settlement of the accounts of each county at stated periods any surplus remaining to credit of county in excess of \$500 is to be transferred to the school fund.

A few years since a bill for the establishment of a free public school system passed one branch of the legislature, but was defeated in the other. Apparently there is a sharp contest between sectarianism and the friends of the free school system.

UTAH.

School laws to 1878.

The territorial superintendent is elected biennially and a superintendent for each county at the same time.

The county court is to divide each county into school districts.

Each district elects a board of three trustees, with the usual powers and duties, to serve for 2 years.

The county court also appoints a board of examination to examine and license teachers.

Text books are prescribed by the territorial and county superintendents and the president of the University of Deseret, meeting in convention for that purpose. School terms are arranged by the consentient action of the county superintendents and the trustees of their several counties.

The territorial school tax is 3 mills. The district trustees assess a tax of $\frac{1}{4}$ of 1 per cent., which may, by a two-thirds vote of district, be increased to not exceeding 3 per cent.¹

The territorial tax is apportioned by superintendent according to the number of children between 6 and 16, which number is ascertained by an annual school census taken by the district trustees.

WASHINGTON.

School laws to 1877.

A superintendent of public instruction is appointed by the governor and council for a term of two years, also one person from each judicial district, who with the superintendent constitute the board of education.

The board are to prescribe text books and rules for the government of the schools, sit as a board of examination, and grant teachers' certificates.

¹ Apparently to supplement the sums derived from these two sources there is an annual territorial appropriation of \$20,000, with the proceeds from a tax on railroads and from the sale of estrays.

The county superintendent is elected biennially, who with two persons selected by him constitutes a county board of examination.

Districts are established by the county superintendents on petition of residents.

Each district elects a board of three directors, one to be elected each year for three years. Every person who has resided in the district for three months next preceding the meeting may vote, whether male or female.

Two or more districts may unite to establish graded schools, or any single district may have them. A city or town of 500 or more school children is required to establish such schools, and one with 400 inhabitants may compel the attendance of children between 8 and 16 years old at least 6 months each year.

Every district of 15 or more children of school age must maintain at least three months' school each year to entitle it to apportionment. The school month is 4 weeks of 5 days each. The school day, 6 hours; for primary schools, 4 hours.

Teachers' institutes are to be held in each county with 10 or more districts annually and one for the whole Territory must also be held annually by the territorial superintendent. Text books, when adopted, are not to be changed for five years.

Districts may vote tax, not to exceed 10 mills, to maintain their schools or furnish additional school facilities; meetings for this purpose not to exceed two in any year. All other school moneys are apportioned to the districts in proportion to their number of youth of school age (4-21), as reported by the district clerks.

WYOMING.

School laws to 1878.

The territorial librarian is superintendent of schools. The county superintendent is elected by people, and is to divide his county into districts.

Each district is to elect a board of three trustees, one to be elected each year for three years. The trustees are to choose of their own number a director, treasurer, and clerk.

All citizens and taxpayers over 21 who have resided in district for 30 days are voters, women included. Women may also hold office.

The district determines number and length of schools, provides houses and may vote money therefor, and may raise not exceeding \$100 for library.

The district board are to make all contracts, and, with county superintendent, may establish graded schools.

The schools are to be free to all children between 7 and 21.¹ Where

¹ Three months' attendance annually in some school is made a duty (unless in the case of invalids and others excused by the school board) for all children of school age; and parents or guardians who neglect or refuse to send to school children between 7 and 16 years of age are liable to a fine of \$25 for every offense against this rule.

there are 15 or more colored children in any district separate schools may be provided.

No discrimination in pay of teachers is to be made on account of sex. A county tax of 2 mills is to be levied annually.

CONCLUSION.

Like all other statutes, the school laws of the States are subject to change or amendment at the will of the legislatures.

In no State is the system claimed to be perfect; but, on the contrary, the reports of the State and other supervisory officers freely criticise the workings of the systems and frequently suggest amendments.

In the Report of the Commissioner of Education for 1875 will be found a brief statement of the system in each of the States. A comparison of these with the present will show that few changes have been made in many of the States, and that where they have occurred they are mainly in details. In a few States changes have been made which are not in the direction of progress.

The history of the common school system, however, shows that wherever the free school system has once obtained a foothold no retrograde movement can be permanently successful. Local or sectional prejudices may retard its progress, but the good sense of the people will in the end triumph over all obstacles.

